The State is issuing a revised RFP in order to allow for a wider range of responses and proposed solutions that could meet the State’s needs. In this revised RFP, the State continues to seek the core administrative services needed to implement the Green Mountain Secure Retirement Plan. However, it allows for a greater range of service models and alternative proposals.

In general, the revised RFP reflects an overall simplification of the document, removal of certain requirements, clarification of preferences as opposed to requirements, and additional flexibility in the nature of the proposed solutions. The following is a list of the major changes from the original to the revised RFP:

- Rather than seeking a single, turnkey third-party administrator and fiduciary, the revised RFP would allow for a greater range of proposed solutions
  - Would allow for a vendor to sub-contract or partner with other vendors
  - Investment Management and Marketing services are no longer required services under the RFP and are instead Optional Services
  - Fiduciary services are no longer required, and Respondents are invited to specify whether and if so what types of “fiduciary” services they propose to assume as part of the provided services
- Removal of the “Minimum Qualification” of 5-years of experience
- Removal of requirement for the Vendor to have a Vermont Presence and to shoulder full marketing responsibilities
  - Change allows for State employees to work with vendor to market, brand, and promote the plan
- Removal of requirement for an open-architecture investment fund concept
- Simplification and reduction of “documents” and “reporting” requirements
- Further clarity and simplification of web-access preferences with respect to employer and employee onboarding and ongoing support
- Further clarity and simplification regarding compatibility with payroll services providers and financial institutions
SEALED BID
REQUEST FOR PROPOSAL
FOR
GREEN MOUNTAIN SECURE RETIREMENT PLAN

Expected RFP Schedule Summary:

<table>
<thead>
<tr>
<th>Event</th>
<th>Date/Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>ISSUE DATE</td>
<td>June 1, 2018</td>
</tr>
<tr>
<td>QUESTIONS DUE</td>
<td>June 13, 2018 at 3:00 PM</td>
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<tr>
<td>RFP RESPONSES DUE BY</td>
<td>June 29, 2018 at 3:00 PM</td>
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<tr>
<td>FINALIST SELECTION PROCESS</td>
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<td>CONTRACT DEVELOPMENT</td>
<td>August - September, 2018</td>
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<td>PROJECT START DATE</td>
<td>September 17, 2018</td>
</tr>
<tr>
<td>PROJECT LAUNCH</td>
<td>January 1, 2019</td>
</tr>
</tbody>
</table>

PLEASE BE ADVISED THAT ALL NOTIFICATIONS, RELEASES, AND AMENDMENTS ASSOCIATED WITH THIS RFP WILL BE POSTED AT:

http://www.bgs.state.vt.us/pca/bids/bids.php

THE STATE WILL MAKE NO ATTEMPT TO CONTACT INTERESTED PARTIES WITH UPDATED INFORMATION. IT IS THE RESPONSIBILITY OF EACH BIDDER TO PERIODICALLY CHECK THE ABOVE WEBPAGE FOR ANY AND ALL NOTIFICATIONS, RELEASES AND AMENDMENTS ASSOCIATED WITH THIS RFP.

PURCHASING AGENT: Stephen Fazekas
TELEPHONE: (802) 828-2210
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FAX: (802) 828-2222
1 RFP OVERVIEW

1.1 Overview

The Office of Purchasing & Contracting on behalf of the Green Mountain Secure Retirement Board (Board) is soliciting responses to this Request for Proposal (RFP) from Respondents qualified to provide all recordkeeping, administrative, and other services needed for the effective operation of the Green Mountain Secure Retirement Plan (Secure Retirement Plan), which is described in greater detail in section 1.3 below, in accordance with applicable state/federal laws and regulations and specified performance standards, which shall be agreed upon by the Board and the successful Respondent.

The focus of this RFP is to solicit the recordkeeping, administrative, and custodial services needed for the successful operation of the Secure Retirement Plan. This RFP also welcomes proposals to provide optional services, such as investment management and marketing services. Recognizing the novel aspects of the Secure Retirement Plan, the State is receptive to considering a range of proposals from Respondents to provide some or all of these services. The State is also receptive to suggested alternative models to provide the services necessary to administer the Secure Retirement Plan. If a suitable offer is made in response to this RFP, the State may enter into a contract (the Contract) to have the selected offer (the Contractor) perform all or part of the Work. This RFP provides details on what is required to submit a Proposal in response to this RFP, how Proposals will be evaluated, and what will be required of the Contractor in performing the Work.

This is a Request for Competitive Sealed Proposals (RFP) to select the vendor who can perform the Scope of Work described in Section 2 of this RFP.

1.2 RFP Objective

The State is seeking proposals for recordkeeping, administrative, and custodial services needed for the effective operation of the Secure Retirement Plan and envisions that the solution will establish a Secure Retirement Plan that meets the twelve guiding principles described in section 1.3 below. The selected vendor(s) shall provide comprehensive third-party administrator services for the Secure Retirement Plan in a manner consistent with applicable state and federal requirements.

Recognizing the work effort involved, the State is willing to entertain proposed contract terms for the selected vendor(s) of up to 15 years, which would include an initial term of five (5) years and the possibility for up to two, five (5) year extensions.

1.3 Background and Philosophy

This Section provides background on the Secure Retirement Plan, the Board, the guiding principles established by the General Assembly, and the demographic overview.

A. Secure Retirement

On June 9, 2017, Act 69 of 2017 was signed into law, thereby establishing Secure Retirement Plan and its Board. The Secure Retirement Plan is a voluntary multiple employer plan (MEP) public retirement savings initiative that applies to all employers in Vermont that have no more than 50 employees and do not offer a qualified retirement savings option (Employer). The Secure Retirement Plan is also intended to be available to self-employed individuals. If Employers do not provide a retirement savings program to their employees, they can opt-in to the Secure Retirement Plan, at which point they will automatically enroll their employees into the Secure Retirement Plan. Employees may opt-out of the Secure Retirement Plan entirely. Those employees who do not opt-out (Participant) will be enrolled into a default fund (to be determined) with a default pre-tax percentage (to be determined) but would have the
ability to change their fund option or contribution amount. Participant accounts will be portable. The third-party administrator will pool and manage the individual accounts.

As a public retirement plan, the Secure Retirement Plan is not a governmental plan. Accordingly, it is subject to the provisions of the Employee Retirement Income Security Act (ERISA).

B. Board

Act 69 creates a seven-person Board, responsible for implementing and overseeing the management of the Secure Retirement Plan, with the Vermont State Treasurer designated as the Chair. Specific responsibilities of the Board are delineated in Act 69. The Board was preceded by the Public Retirement Study Committee (Committee), which was initially created in 2014 Acts and Resolves No. 179, Sec. C.108, as amended by 2015 Acts and Resolves No. 58, Sec. C.100, and reaffirmed by 2016 Act 157, Sec. F.1.

C. Guiding Principles

The Act establishes twelve guiding principles for the Secure Retirement Plan. The program to be implemented must adhere to them:

1. **Simplicity**: the Plan should be easy for participants to understand.
2. **Affordability**: the Plan should be administered to maximize cost effectiveness and efficiency.
3. **Ease of access**: the Plan should be easy to join.
4. **Trustworthy oversight**: the Plan should be administered by an organization with unimpeachable credentials.
5. **Protection from exploitation**: the Plan should protect its participants, particularly the elderly, from unscrupulous business practices and individuals.
6. **Portability**: the Plan should not depend upon employment with a specific firm or organization.
7. **Choice**: the Plan should provide sufficient investment alternatives to be suitable for individuals with distinct goals, but not too many options to induce analysis paralysis.
8. **Voluntary**: the Plan should not be mandatory but auto enrollment should be used to increase participation.
9. **Financial education and financial literacy**: the Plan should assist the individual in understanding his or her financial situation.
10. **Sufficient savings**: the Plan should encourage adequate savings in retirement combined with existing pension savings and Social Security.
11. **Additive not duplicative**: the Plan should not compete with existing private sector solutions.
12. **Use of pretax dollars**: contributions to the Plan should be made using pretax dollars.

D. Demographic Overview

According to the Vermont Department of Labor, the following data is available as of March 31, 2017:

- 21,783 private firms in Vermont
- 21,026 (or 96.5%) had fewer than 50 employees
- Private firms with less than 50 employees employed 111,854 employees on a part- or full-time basis. (Source: Quarterly Census of Employment and Wages)

According to the 2013 Fringe Benefit Survey, here is the breakdown of private firms that offer a “retirement plan”:
(https://www.vtlmi.info/2013fringebenefitstudy.pdf)

- Private firms with 3-9 employees – 30% offer a retirement plan
- Private firms with 10-19 employees – 43% offer a retirement plan
- Private firms with 20-49 employees – 57% offer a retirement plan

1.4 Current Business Environment

The successful Respondent will provide the recordkeeping, administrative, and custodial services necessary for the successful implementation and operation of the Secure Retirement Plan, as well as any of the optional services proposed and agreed upon by the parties.
In responding to this RFP, each Respondent is required to provide a detailed Project Approach that will fully describe all activities it proposes to undertake in its role as Plan Administrator for the Secure Retirement Plan. The Project Approach must be a detailed overview of the structure and delivery model that will be used and define all resources and staff that will be committed to this effort. All activities must be detailed and fully described and a timeline with all key activities and dates must be provided. The Project Approach will be used to form the contract with the Board and therefore must fully identify any restrictions or limitations to services.

1.5 Minimum Qualifications

Each Respondent must meet all of the following minimum qualifications to be given consideration. Each Respondent must confirm within its proposal response that it meets the Qualifications listed below and provide a brief explanation of how specifically the firm meets each requirement. Failure to satisfy the minimum qualifications, as determined by the Board, will result in the disqualification of the proposal.

1. The Respondent must currently be either (i) a third-party administrator/record-keeper and investments options provider or (ii) a third-party administrator/record-keeper with the ability to coordinate the requested investment services. The Board will consider single proposals for third-party administrator (TPA) services that involve more than one service entity; however, each bid must be made by a primary vendor responsible for the acts or omissions of each service entity. All service entities under a single bid must be identified and the primary vendor must verify ability and commitment to provide the needed services when proposals are submitted.

2. The terms and conditions of a vendor’s software license or end user agreement, maintenance support agreement and service level agreement, if applicable, and any agreements which the vendor or its subcontractors propose to enter into with Program participants for purposes of investment management services must be provided for purposes of contract negotiations for these services. Failure to provide the applicable vendor terms as part of the RFP response may result in rejection of the vendor’s proposal.

3. The Board has no legal authority to indemnify a vendor and this condition is not negotiable. Further, all contract terms and conditions, including end user agreement terms will be subject to the laws of the State of Vermont and any action or proceeding brought by either the Board or a contractor in connection with a contract shall be brought and enforced in the Superior Court of the Board of Vermont, Civil Division, Washington Unit. Vendors who are not able to enter into a contract under these conditions should not submit a bid.

4. The Respondent must have Statements on Standards for Attestation Engagements (SSAE) No. 16 Reporting on Controls at a Service Organization audit conducted at least annually. The Respondent must submit its most recent copy and include SOC 1 and SOC 2, Type 2. If the audit was not completed within the last 12 months please attach an explanation.

5. The Respondent must provide a single point of contact to serve as the Board’s Relationship Manager.

6. The Respondent must comply with the State’s Information Security Policy as described in Attachment D. Respondent must also comply with all Security Policies and conform with all Standards required by the Board. Additionally, the selected Respondent must be flexible in accommodating changes which may be made to Agency’s security plan, policies and procedures.

7. Any branding and content that is developed by the selected Bidder for the State during the contract period will be the sole property of the State to be used by the selected Bidder.

8. Respondent must be able to accommodate a January 2019 program launch.
2 SCOPE OF WORK

The State of Vermont is interested in obtaining bids to meet the following business need(s): A Contractor to provide services to launch and administer a multiple employer plan for those Vermont-based employers that meet the requirements outlined above and perform all services in accordance with all applicable federal and state laws, administrative rules, and regulations.

As the first of its kind, the State is seeking to retain a Contractor to partner with the Office of the State Treasurer and the Board to launch and administer the Program. The State is looking for a firm with the ability to set-up, implement and provide ongoing administration, as more fully described below. Respondents are requested to provide their recommendations for a service model that will accomplish the Program’s objectives while offering access to competitive retirement administration and appropriate investment options. Respondents are also asked to identify any of the services listed below that they are unable or unwilling to provide as part of their response.

Reflecting the start-up nature of the Program, the State is asking for Respondents to outline their recommended approach to marketing and advertising of the Program and conducting the activities associated with setting up interested Employers in the Program. The cost for these activities should be separately identified, if offered as part of the proposal.

Program Administration

1. **General**: Provide all recordkeeping and administrative services needed for the effective operation of the Secure Retirement. Such services shall be subject to approval of the Board and shall include, but are not limited to the following:
   a. Establish an automatic enrollment process (paper and/or online) for Employees via Employers;
   b. Offer the ability for Employees to make pre-tax, catch-up and Roth contributions;
   c. Provide the ability for Employers to offer an Employer contribution;
   d. Maintain participant and beneficiary information;
   e. Receive and deposit contributions;
   f. Disburse funds (e.g. withdrawals and loans); and
   g. Provide data security and fraud prevention.

2. **Documents**: Provide all necessary plan documents, including but not limited to a Plan Document, Adoption Agreement, Participating Employer Agreement, and Summary Plan Description. Develop, prepare and send all forms and operating documents necessary for the administration and promotion of the Secure Retirement Plan, subject to the approval of the Board.

3. **Reporting**: Develop, prepare and deliver all reporting necessary for the administration and promotion of the Secure Retirement Plan, subject to the approval of the Board. The Contractor will develop and send all reports necessary for the operation of the Secure Retirement Plan.

5. **Employer Web Access**: The Contractor will provide Employer web access that provides state-of-the-art security and password protocols and give Employers and authorized agents the ability to perform the all necessary activities.

6. **Employer Activation**: The Contractor will activate an Employer once the Employer has provided all required information and executed all required plan applications and documents. Additionally, the Contractor will perform the following:
a. Notify the Employer that its plan has been activated;
b. Provide the Employer login information and instructions for starting the auto-enrollment of Employees, including all required activities and timing requirements; and
c. Provide all technical support needed by Employers.

7. **Employee Web Access**: Develop and maintain an Employee website that provides state-of-the-art security and password protocols, and functionality. The Employee website Portal shall also give Participants and authorized agents the ability to perform the following minimum requirements:

   - Access/view current and historical account information;
   - Obtain investment performance information;
   - Conduct transactions;
   - View completed and pending transactions;
   - Designate beneficiaries and authorized agents, if any; and
   - Make changes to account information, contribution amounts, and fund selections

8. **Employer Program Support**: Develop and support Employers in all aspects of plan administration including an auto-enrollment process. The process must capture any data/information needed to aid the Contractor in providing technical assistance and support to Employers, Employees, and Participants throughout the plan set-up, Employee opt-out, and account maintenance processes.

   Contractor will also provide periodic contribution limit monitoring services and provide electronic and/or written notices to Employees who are approaching or have exceeded the annual contribution limits.

   Contractor will be responsible for the overall testing of the plan and must be able to identify and work with specific Employers and the Board to remedy any failed tests.

   Contractor will have the technical capability to integrate with the major payroll processors and other financial institutions in order to provide for automatic deductions for employee paychecks. Contractor will also be able to integrate with employers that do not have technical capabilities or systems and those that rely primarily on paper and manual processes. Reasonable limits on the number of payroll providers with which Contractor would be required to integrate will be considered. Consideration will also be given to proposed requirements for employers who do not employ such providers to engage in a manual process (whether on paper or by online data entry).

   If a Respondent has limitations and/or requirements regarding the payroll remission process, they should be identified and described in the response.

9. **Employer Error Correction Support Services**: Contractor will have a robust and documented process to aid Employers in correcting errors.

10. **Employee Enrollment and Account Maintenance**: Develop and support an Employee enrollment process that is easy for Employers to execute and that includes all aspects of the Employee’s auto-enrollment and opt-out process, and account maintenance services. The process must capture any data/information needed to aid the Contractor in providing technical assistance and support to Employers, Employees, and Participants throughout the plan set-up, Employee opt-out, and account maintenance processes.

11. **Withdrawals and Distributions**: The Contractor will assist Employers with the processes necessary to complete all withdrawals and distributions permissible under the Plan, including, but not limited to:

   a. Process loans, in-service withdrawals, and hardship withdrawals;
b. Process death benefits, including collecting all required information and documentation to validate appropriate beneficiaries;
c. Process domestic relations orders, including obtaining all required information and documentation to validate appropriate account recordkeeping and legal requirements;
d. Make allowable rollovers to other defined contribution retirement plans and IRAs at the request of the Participant; and
e. Provide tax reporting service, including 1099-R reporting to Participants.

12. **Quality Control**: Maintain and document robust quality control procedures to minimize error rates, and take all action necessary to ensure the confidentiality and privacy of all Employees, Participants, contributors and beneficiaries, as applicable.

13. **Employer Number**: Assign each Employer a unique identifying Plan number and provide for and conduct a process for monitoring contribution maximums, including returning excess contributions.

**Customer Service**

1. **General**: Provide all customer service support for Employers, Participants, Beneficiaries, Employees, and interested parties to ensure effective operation of the Secure Retirement Plan. Such services must be performed in accordance with all federal and state requirements and Secure Retirement Plan rules.

2. **Correspondence**: Maintain a physical address for overnight deliveries and a post office box for regular mail. Accept e-mails, electronic communications via the website, overnight deliveries, and U.S. postal mail. The Contractor will respond to all of the Secure Retirement-related correspondence it receives. Contractor will retain copies of the correspondence and its responses in accordance with applicable laws, rules and regulations.

3. **Call Center**: Provide a call center with multi-lingual service options that is located in the United States, which will be staffed with all necessary customer service staff needed for the effective operation of the call center. The Contractor will staff the call center with licensed or registered customer service representatives from a minimum of 9:00 a.m. and 5:00 p.m. ET, Monday through Friday.

4. **Employer Customer Support and Technical Assistance Services**: Provide assistance to Employers who encounter difficulties in administering their Plan. When online information does not address the Employers’ needs, provide support through online chat and/or call center representatives. The Contractor will provide Employers assistance on all aspects of setting up and administering its Secure Retirement Plan, including:
   a. How to set-up the payroll deduction and remittance process for Participants, including how to handle Employees who have opted-out, and any required documents that Employer must retain;
   b. Employee issues including:
      i. Unusual eligibility situations, including multiple employment situations,
      ii. Employee documentation issues,
      iii. Employment breaks, rehire situations and/or seasonal employment patterns,
      iv. Employee documentation issues;
   c. Data errors. The Contractor will provide the Employer with assistance by performing the following:
      i. Identify all issues relating to invalid data and/or funding of payroll remittances;
      ii. Request corrections and provide Employers easy to follow instructions on how the Employer should correct the error. Corrections include, but are not limited to, withholding incorrect contribution amounts, as well as contributions that should have or should not have been withheld;
iii. Provide Employers customer support to assist Employers in correcting errors and clearly communicate Secure Retirement Plan parameters to Employers (e.g. Secure Retirement Plan rules regarding compliance); and

iv. Monitor Employer’s corrections in accordance with applicable laws, rules, and regulations.

Custodial Services

1. **Custodial Services**: Provide all custodial, fund administration, and fund accounting services necessary to support the investments, including, but not limited to, the following: custody, segregation of funds, cash management, banking services, and purchase and sale of underlying investment products to effectuate Participants’ directions.

Investment Management Services

1. **General**: Provide a project approach for investment management services. Specifically, Respondents are asked to identify whether they are willing and/or able to provide investment management services. To the extent Respondents do not wish to provide these services, they are asked to propose a solution for how such services should be structured that will best match the services they will provide as part of their response. In providing this approach, Respondents should address the following:

2. **Investment Services**: Provide expertise in investment management services and administer an appropriate array of investment options, which will include, at a minimum, a suite of retirement target date funds or similar asset allocation funds as well as a reasonable array of other investment funds to ensure the effective operation of the Secure Retirement Plan.

- **Monitoring**: Monitor the cost-effectiveness and performance of each of the Secure Retirement Plan funds on an ongoing basis to ensure their suitability both individually and as part of the overall diversified line-up and make recommendations to the Board in accordance with the Board’s Secure Retirement Plan Investment Policy Statement and Principles, and sound investment management principles and practices. Included in this service is the ongoing obligation to monitor annually the net expense ratio share class of each fund in the lineup, and to report its findings and recommendations to the Board;

- **Cooperation and Communication**: Cooperate and communicate with the Board, and/or its designees in all its evaluations of the investment options and in periodic audits.

Oversight, Reporting and Data Analytics

1. **General**: Provide all agreed upon information and data to the Board. Such services should include, but are not limited to:

   a. **Dormant Accounts** – Comply with the unclaimed property laws and any other laws regarding abandoned property as applied to participant accounts;

   b. **Compliance Notice** – Provide the Board written notice within 24-hours of when Contractor knows or reasonably should have known of any federal or State compliance issues;

   c. **Reports** – Provide reports to the Board that are compliant with all applicable reporting requirements. Such reports shall be required on a monthly, quarterly, calendar year-end, fiscal year-end, and since program-inception basis, as specified in the Contract. Additionally, the Contractor shall provide ad hoc reports upon request by the Board or its designee;

   d. **Account Activity Reporting** – Fulfill any federal or state reporting requirements, including, but not limited to, any reports required by the IRS, SEC, or DOL; and
e. Meetings – Attend quarterly meetings for Secure Retirement Plan with the Board and/or its designee. The Contractor shall also attend Board meetings as needed, but no less than two (2) times per year, to present reports, analysis, and to respond to any questions.

2. **Quality Control**: Maintain and document industry best-practice quality control procedures to minimize errors during enrollment, contribution remittance, data transfers, and reporting, and take all actions necessary to ensure the confidentiality and privacy of information and data for all Employers, Employees, Participants, and beneficiaries, as applicable.

3. **Program Data Submissions**: Submit program data in compliance with all applicable laws and regulations.

4. **Changes in Law**: Monitor changes in federal and state laws and regulations that might impact the Secure Retirement Plan, advise the Board of any necessary changes, and work with the Board and/or its designee to implement any necessary or desired changes.

5. **Annual Audit**: The Contractor will prepare an annual audit in accordance with Vermont State Law.

6. **Annual Program Report**: Contractor will prepare an Annual Program Report, subject to the approval of the Board, for Employers and Employees that will be posted on Contractor’s and Secure Retirement Plan’s website. The report will be written in easy-to-read and understandable language and will address all statutory reporting requirements.

7. **Transition Services**: In the event of a transition, the Contractor will provide all needed or required services, information, data, and cooperation as requested by the Board and in coordination with a new Contractor in a form and manner acceptable to the Board. As requested, provide timely communications to Employers and Participants in relation to any transition to a new vendor at the request of the Board. This may include retaining participant data/information for a period of up to seven years and being responsive to participant inquiries as well as transmitting historical participant transactional data to the new Contractor in a usable format following

### 2.1 Bidder’s Proposal, Information and Approach

The State welcomes all bidders to provide some or all of the services identified in the Scope of Work. The fact that a Respondent may not wish to provide all of the services identified should not stand as a barrier to providing a response to this RFP. Respondents should clearly identify which (if any) services they are excluding from their proposal and to the extent practicable, include a brief description of how it would suggest that the State provide or procure any of the services that the Respondent would not provide under its proposal.

Each bidder’s proposal will address the following:

- **Part 1 – Summary/Proposed Approach.** This should include a statement in the bidder’s own words of the overall nature of the services requested in this RFP and a narrative of how it will provide the services requested in this RFP. The narrative should address all services outlined in the “Scope of Services” and should be prepared simply and economically, providing a straightforward and concise description of the bidder’s philosophy, services and qualifications. The narrative should also contain a timeline, describing the Respondent’s proposed approach to the delivery of the Services and any other information Respondent believes is relevant.

The Respondent should fully describe the activities it proposes to undertake in its role as the Contractor (including activities, if any, to be completed by subcontractors). The Proposed Approach and Timeline should:

1. Provide an overview of the structure, services, and delivery model that will be used
2. Define all resources and staff that will be committed to this effort

3. Fully describe all key activities.

4. Provide a fully detailed implementation plan including a proposed timeline with dates. The proposed implementation plan should identify all steps, processes, documents, and other deliverables necessary to commence the launch the Secure Retirement Plan in January 2019.

To ensure the most cost-effective and efficient program, Respondents are asked to provide alternative approaches to any of the services outlined or propose any additional services that should be included or processes, alternatives or optional approaches that will improve service quality or reduce costs.

In addition this Summary/Proposed Approach, Respondents should separately identify and describe the level of program marketing services that the Respondent proposes to provide and separately identify the cost for these services, including any in-person marketing or customer services that will be included. Describe your approach to how your proposed plan will maximize Employer and Employee participation commenting on:

- Identifying potential eligible Employers,
- Setting up a process to describe and promote the benefits of the Program to potential eligible Employers,
- Providing assistance to potential Employers by answering questions and identifying Program benefits,
- Enrolling Employers who decide to participate in the Program
- Providing necessary follow-up and support to the Employer in administering the Plan.

The costs for these efforts should be separately identified in the Price Proposal.

Part 2 – Questions. Proposals must include a written response to each question outlined in this questionnaire. The response should succinctly reflect the Proposer’s understanding of the stated requirements, and the Proposer’s qualifications and experience in providing the required services. The information provided in response to this Questionnaire will be a major factor in the State’s selection of a service provider or providers through this RFP.

A. General

1. Provide your company’s name, address, and type of legal entity.

2. Provide the name, title, mailing address, email address, and telephone number of the organization’s contact person with whom we may contact with questions regarding your response.

3. Provide the name, title, and resume of the project manager and the employees that will be working on the Contract, and describe their roles, responsibilities, and areas of expertise.

4. Briefly describe an overview of your company and the history of your organization. Describe any parent, subsidiary, or affiliate relationships. Please provide an organizational chart for both the professional staff and the corporate organization. Are you currently participating in any alliances or joint marketing efforts? If so, describe in detail.

5. Provide a copy of the organization’s most recent audited financial report or statement.
6. Are there any pending discussions, plans, or agreements to merge or sell your company or any portion thereof or to acquire another company? If yes, please explain.

7. Provide the current credit ratings from the four major ratings agencies – A.M. Best, Fitch, Moody’s, and S&P for your organization, and its subsidiaries, if applicable.

8. What are your client retention statistics for each of the last five years? What is the historic average duration of client relationships for your organization? For those clients who discontinued services, what percentage left due to issues pertaining to services provided by your organization? Describe the particular reasons why relationships were terminated.

9. Identify and describe any subcontractor(s) that you plan to use in the provision of services to the State. Describe your history of working with the subcontractor(s) and the nature of services the subcontractor(s) would provide under this contract.

10. Disclose Respondent’s primary location, as well as the location of any facility located outside of the primary location that will be used to provide the Services.

11. Describe how Respondent is best suited to meet the needs of the Secure Retirement Plan with particular emphasis on program design, implementation, and ongoing administration. Understanding that the Secure Retirement Plan will be a new multiple employer program (MEP), how would the Respondent partner with the Board to achieve success in advance of program launch, during enrollment, and throughout program operations?

12. Has your firm been cited or threatened with citation within the last five years by any federal or state regulators for violations of any state or federal law or impending regulations? If your answer is yes, please describe fully.

13. Provide a detailed summary of your firm’s compliance process. Does your firm maintain a code of ethics? If so, please attach to your response.

14. Identify any potential conflict of interest, or appearance of a conflict of interest that your company would have in providing the services requested within this Request for Proposal, including any relationship with Segal Consulting. Describe how you will handle this and why it should not be viewed as detrimental to the State’s selection of a service provider hereunder.

15. Has the Respondent been a party to a lawsuit in the past five (5) years? If so, please provide a detailed explanation.

16. Has Respondent or any subcontractor(s) been a party to any data breach or loss of personal, financial or other data considered private or confidential in the last five (5) years? If so, provide details and what steps were taken to address the issue both in the short term related to the specific breach/loss and also in the long term to prevent such a breach/loss from happening again.

17. Please describe any changes in the Respondent’s ownership or management structure in the past five (5) years. Would these changes have any impact on Respondent’s ability to provide the Services during the expected term of the Agreement?

18. If any of the services will be performed outside of the United States, identify those services and provide a detailed explanation of where those services would be performed and why it would be required.
19. Provide contact information for five (5) client references. References must be entities for which the Respondent has provided services most similar to the services set forth in the Scope of Work in this RFP. For each reference, please provide the client’s name, individual reference’s name, title, email address, and office phone number.

20. Provide a description of all of the various types of insurance coverage (carriers, risk coverage, levels, limits, deductibles, expiration dates, etc.) Respondent has in place to protect its clients.

21. Describe Respondent’s experience designing, deploying, or administering qualified deferred compensation or defined contribution retirement programs or other initiatives to encourage retirement savings.

22. Please identify any services listed in the Scope of Work of this RFP that Respondent is excluding from the proposal and explain why.

23. If the Respondent is proposing to provide any of the fiduciary services required of a multiple employer plan (including 3(16), 3(21) and 3(38) fiduciary services), please identify. To the extent Respondent would charge a different fee for different levels of fiduciary oversight, please detail the different fees for each service. To the extent this information is provided in Part 2 below, Respondent can simply reference that section.

B. Administrative Background and Experience

1. Please provide the following firm information:
   
   i. Total assets under administration
   
   ii. Total qualified deferred compensation and defined contribution assets under administration
   
   iii. Total number of participants in all deferred compensation and defined contribution plans currently administered by Respondent
   
   iv. Total MEP assets under administration
   
   v. Total number of MEPs under administration

2. List the number and total MEP assets that Respondent currently administers in the following categories:

<table>
<thead>
<tr>
<th>Number of Participants</th>
<th>Plans</th>
<th>Assets</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Number</td>
<td>Percent</td>
</tr>
<tr>
<td>Under 1,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1,001 – 5,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5,001 – 10,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Over 10,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
3. Describe Respondent’s policies and procedures for complying with the following:
   i. Applicable SEC, IRS, and DOL rules (including data submissions and continuing disclosure);
   ii. Vermont laws and regulations; and
   iii. Industry best practices for MEP plans.

4. Please provide the following:
   i. Any IT audit report such as SOC 2-IT audit report, or any other IT audit you have performed. Who completes the audit and how frequently?
   ii. Most recent audited financial statements.
   iii. Sample service contract including transition out services.

5. As part of the Respondent’s annual external audit process, explain procedures for verifying the net asset value, calculation of fees, and underlying investment fund balances.

6. Without compromising the Respondent’s IT security procedures, please describe the recordkeeping systems, database software, and system security that would be used for Secure Retirement.

7. Without compromising the Respondent’s IT security procedures, please describe Respondent’s disaster recovery plan, including back-up procedures, and alternate operation facilities.

8. Without compromising the Respondent’s IT security procedures, please describe what type of assessments the Respondent performs to ensure its IT infrastructure remains secure.

C. Relationship Management

1. Describe the client management and service approach Respondent would use with Secure Retirement, including how Respondent would “troubleshoot” when service issues or errors arise, and how the Respondent would communicate with the Treasurer and Board throughout the process.

D. Reporting

1. Please describe the reporting Respondent will provide to the Treasurer, Board, Consultants and/or participating Employers.

E. Employer Setup and Employee Enrollment

1. Describe experience, if any, the Respondent has with launching and servicing multiple employers in a similar retirement savings program? What would Respondent consider to be the key(s) to success?

2. Fully describe the support services the Respondent would recommend providing Employers in setting up the Plan and facilitating the auto-enrollment for Employees, including written materials, instructions, webinars/videos, training opportunities, and customer service.

3. What data validation notices would Respondent recommend providing Employers for Employer setup and auto-enrollment of Employees?
4. Describe Respondent’s experience facilitating auto-enrollment of participants into retirement savings programs, including how Respondent minimized confusion and the possibility for errors.

5. Provide Respondent’s recommendations for how to best provide notice to Employees about Secure Retirement and their right to opt-out. Describe in detail what opt-out methods Respondent would offer, such as a paper form, phone option, and/or web option.

6. How would Respondent handle Employees contributing through multiple Employers? How would Respondent maintain a Participant’s eligibility and vesting if participating through multiple Employers? Describe any administrative challenges or limitations.

7. Describe the plan design flexibility and limitations of Respondent’s recordkeeping platform as it pertains to multiple employer programs. Describe your ability to administer Roth and/or Employer Contributions at the participating Employer level.

8. Describe Respondent’s experience and process for assisting an Employer who chooses to cease participation in Secure Retirement? Please outline any additional costs associated with this service.

F. Contributions/Distributions

1. Describe the Respondent’s process for accepting and remitting payroll contributions, including data verification methods, error correction support services, timely remission of contributions, adherence to IRS contribution limits, and methods for returning contributions made in excess of IRS limits.

2. Describe Respondent’s process for allowing Participants to make changes to their contribution level or fund selection, including how Employers would be notified when a payroll contribution needs to be changed.

3. Describe how Respondent would receive and process loan, distribution or withdrawal requests, including what options would be available to Participants for withdrawals and the timing for processing and making funds available.

4. Describe how Respondent would return contributions to the Employee if they opt-out of participating in Secure Retirement. How would Respondent recommend contributions be invested during the opt-out window?

G. Websites

1. Outline the content and features Respondent recommends providing Employers and how Respondent would design the Employer website for ease of use.

2. Describe the Employer Website support services Respondent recommends providing Employers.

3. Does the Respondent have the ability to offer access to the Websites via a mobile app, or would the content be optimized for mobile devices?

4. In what formats would the Websites export data?

5. What online security protocols would Respondent use to protect Employees and Participants when they access their respective Websites?
6. What communication material or tools will Respondent offer Participants via the website?

7. How does Respondent ensure that the website is kept up-to-date, including online administrative forms, investment and performance data, and plan information?

8. Provide an internet address and instructions on how to access a demonstration of Respondent’s internet capabilities.

9. Describe how Respondent would communicate and work with Employees who do not have access to online services?

H. Customer Service, Calls and Correspondence

1. Has Respondent’s customer service performance (provided pursuant to other agreements) been evaluated or audited by any third-parties? If so, provide the three most recent audits or evaluations.

2. Describe Respondent’s proposed system for answering in-bound calls. Specify how Respondent would provide multi-lingual call routing and tracking, live representative selection and functionality, the ability to leave voicemails for return calls, and under what circumstances a caller would be asked to leave a voice mail.

3. Describe in detail Respondent’s methodology for handling peak volume call center periods. What is the maximum time that a caller could be on hold or in a queue? Can Respondent roll calls over to another call center?

4. Are call center customer service representatives licensed? Do they have a Series 6 license or better?

5. What would be Respondent’s protocol for escalating dissatisfied callers or correspondents, and negative correspondence to supervisors or the Treasurer?

6. Describe the system that Respondent would use to capture all account specific calls, correspondence, or other customer service contact points in a single customer service record. Also, describe how Respondent would make such customer service records available for review by the Treasurer through remote access.

7. Specify the account changes and transactions requested by Participants that call center customer service representatives would be able to make and describe the system through which they would make such changes and transactions.

I. Custodial Services

1. If Respondent would provide the trustee/custodial services via a subcontractor, please describe Respondent’s relationship and experience with the subcontractor, including length of partnership.

2. Describe how Respondent would ensure the secure custody of contributions after receipt and prior to investment.

3. What would be Respondent’s timeframe for posting contributions to Participant accounts?
J. Marketing (Optional Service)

1. Discuss Respondent’s experience marketing multiple employer defined contribution retirement plans or other similar products. Please give specific examples of marketing initiatives that have proven successful.

2. Describe how Respondent will support the marketing strategy/approach for Secure Retirement. Please include the technologies and/or methods, and all marketing tools that Respondent would utilize.

3. Describe the unique capabilities or approaches that Respondent could provide to help market Secure Retirement.

4. Describe the Respondent’s experience marketing and messaging to Employers and technical audiences (e.g., CPAs, certified financial planners, and attorneys).

5. Describe how Respondent would help utilize local resources (e.g., advisors, CFPs, CPAs) as a distribution channel to promote Secure Retirement.

6. If applicable, discuss Respondent’s experience in creating branding, logos, and tag lines for similar defined contribution programs and provide examples of previous branding work developed by the Respondent.

7. What financial education materials and tools would Respondent offer Employees and Participants? How would Respondent use its marketing and outreach resources to help facilitate and encourage participation in Secure Retirement?

8. Discuss Respondent’s experience, if any, in providing outreach and educational materials to low-to-moderate income workers and provide samples of such materials.

9. A Vermont presence is not required; however, if, for the services proposed, including optional marketing services, the Respondent plans to locate staff or hire additional staff in the State of Vermont. Please provide detail.

K. Investment Management Services (Optional Service)

1. Please recommend essential design concepts that should be incorporated within the Secure Retirement investment program.

2. Describe Respondent’s investment risk management policies and procedures.

3. Keeping in mind the Board’s guiding principles, please describe in detail the investment array the Respondent is proposing and explain why.

4. Is the Respondent’s proposed investment line-up an open architecture framework? If not, please indicate whether there is a minimum required percentage for proprietary funds.

5. If Respondent uses or proposes to use third-party funds, please describe Respondent’s due diligence process, as well as how these funds are selected, monitored, and potentially replaced.
6. How would Respondent provide cost analysis of Secure Retirement’s fees and compare them to industry benchmarks, as well as industry peer-groups?

7. If applicable, describe Respondent’s process for selecting and providing new investment options, replacement of underlying funds, and investment fund recommendations.

8. Describe how Respondent would constantly monitor and provide the Treasurer timely review and analysis of key events that could potentially affect investment options, including significant market events, mergers and acquisitions, public offerings, changes in fund senior management, and new and proposed federal and state legislation and regulations.

9. Please provide samples of a risk and performance report and an investment performance report written by the Respondent.

10. Detail Respondent’s proposed reporting process on plan performance and individual fund performance.

L. Regulatory/Compliance

1. How will Respondent ensure that the Plan remains in compliance with Code and ERISA requirements?

2. Describe Respondent’s compliance services such as compliance testing, Form 5500 preparation, etc.

3. Is Respondent able to provide compliance testing for the Plan? How do you address any tests that fail?

4. Describe how Respondent will monitor required minimum distributions including:
   i. Identification of individuals required to receive RMDs
   ii. Determination of the amount of the minimum required payment
   iii. Payment within required deadlines.

5. What resources do you have to obtain legal opinions, interpretations of laws, regulations, and other matters on issues pertaining to deferred compensation plans?

2.2 Dependencies and Constraints

Consistent with the enabling legislation, the Secure Retirement Plan is required to be operational by January 15, 2019.

It is presently envisioned that Contractor will be paid through participant fees, as there is no State appropriation made for the establishment or implementation of the Secure Retirement Plan.
3 BID PREPARATION

3.1 Single Point of Contact
All communications concerning this RFP are to be addressed in writing to the State Contact listed on the front page of this RFP. Actual or attempted contact with any other individual from the State concerning this RFP is strictly prohibited and may result in disqualification.

3.2 Bidders’ Conference
A bidders’ conference is not required for this RFP.

3.3 Question and Answer Period
Any vendor requiring clarification of any section of this RFP or wishing to comment or take exception to any requirements of the RFP must submit specific questions in writing no later than the deadline for question period indicated on the first page of this RFP. Questions may be emailed to the point of contact on the front page of this RFP. Any comments, questions, or exceptions not raised in writing on or before the last day of the question period are waived. At the close of the question period a copy of all questions or comments and the State’s responses will be posted on the State’s web site http://www.bgs.state.vt.us/pca/bids/bids.php. Every effort will be made to post this information as soon as possible after the question period ends, contingent on the number and complexity of the questions.

3.4 Required Content and Format for Bid Submission
Proposals submitted for this RFP should include the required number of copies of the following and nothing additional:

- A Cover Letter
- Summary/Proposed Approach (Section 2.1, part 1)
- Answers to Questions, including all documents and attachments required (Section 2.1, part 2)
- Signed Certificate of Compliance (Reference Exhibit A)
- Cost Proposal (Reference Exhibit C)

If portions of are considered proprietary and/or confidential, Respondent should include one (1) redacted copy of the response.

3.4.1 Number of Copies. Submit an unbound original (clearly marked as such) and seven (7) paper copies and one digitally searchable PDF file containing all components of the bid.

3.4.2 The Cover Letter
Please provide an introduction to your company and proposal via a cover letter. All bids submitted to the State are considered public records. Please note in your cover letter if any information in your proposal is considered proprietary and confidential.
a. **Confidentiality.** To the extent your bid contains information you consider to be proprietary and confidential, you must comply with the following requirements concerning the contents of your cover letter and the submission of a redacted copy of your bid (or affected portions thereof).

b. The successful response will become part of the contract file and will become a matter of public record, as will all other responses received. If the response includes material that is considered by the bidder to be proprietary and confidential under the State’s Public Records Act, 1 V.S.A. § 315 et seq., the bidder shall submit a cover letter that clearly identifies each page or section of the response that it believes is proprietary and confidential. The bidder shall also provide in their cover letter a written explanation *for each marked section* explaining why such material should be considered exempt from public disclosure in the event of a public records request, pursuant to 1 V.S.A. § 317(c), including the prospective harm to the competitive position of the bidder if the identified material were to be released. Additionally, the bidder must include a redacted copy of its response for portions that are considered proprietary and confidential. Redactions must be limited so that the reviewer may understand the nature of the information being withheld. It is typically inappropriate to redact entire pages, or to redact the titles/captions of tables and figures. Under no circumstances can the entire response be marked confidential, and the State reserves the right to disqualify responses so marked.

3.4.3 **Certificate of Compliance (Exhibit A)**

This form must be completed and submitted as part of the response for the proposal to be considered valid.

3.4.4 **State of Vermont Cost Proposal (Exhibit C)**

A detailed cost proposal must be completed and submitted as part of the response for the proposal to be considered valid.
4  BID SUBMISSION

4.1 Closing Date: Bids must be received by the due date and at the location specified on the front page of this RFP.

4.2 The bid opening will be held at 109 State Street, 3rd Floor, Montpelier, VT and is open to the public.

4.3 Security Procedures: Please be advised extra time will be needed when visiting and/or delivering information to 109 State Street. All individuals visiting 109 State Street must present a valid government issued photo ID when entering the facility.

4.4 Sealed Bid Instructions: All bids must be sealed and must be addressed to the State of Vermont, Office of Purchasing & Contracting, 109 State Street – 3rd Floor, Montpelier, VT 05609-3001. BID ENVELOPES MUST BE CLEARLY MARKED ‘SEALED BID’ AND SHOW THE REQUISITION NUMBER AND/OR PROPOSAL TITLE, OPENING DATE AND NAME OF BIDDER.

4.4.1 All bidders are hereby notified that sealed bids must be received and time stamped by the Office of Purchasing & Contracting located at 109 State Street – 3rd Floor, Montpelier, VT 05609-3001 - by the time of the bid opening. Bids not in possession of the Office of Purchasing & Contracting at the time of the bid opening will be returned to the vendor, and will not be considered. Any delay deemed caused by Security Procedures will be at the bidder’s own risk.

4.4.2 Office of Purchasing & Contracting may, for cause, change the date and/or time of bid openings or issue an addendum. If a change is made, the State will make a reasonable effort to inform all bidders by posting at: http://www.bgs.state.vt.us/pca/bids/bids.php .

4.4.3 All bids will be publicly opened. Typically, the Office of Purchasing & Contracting will open the bid, read the name and address of the bidder, and read the bid amount. However, the Office of Purchasing & Contracting reserves the right to limit the information disclosed at the bid opening to the name and address of the bidder when, in its sole discretion, the Office of Purchasing & Contracting determines that the nature, type, or size of the bid is such that the Office of Purchasing & Contracting cannot immediately (at the opening) determine that the bids are in compliance with the RFP. As such, there will be cases in which the bid amount will not be read at the bid opening. Bid openings are open to members of the public. Bid results are a public record however, the bid results are exempt from disclosure to the public until the award has been made and the contract is executed.

4.5 Delivery Methods:

4.5.1 Security Procedures: Note that security procedures concerning delivery of any mail or parcels to 109 State Street may delay receipt of mail/parcel pieces by one business day.

4.5.2 U.S. Mail: Bidders are cautioned that it is their responsibility to originate the mailing of bids in sufficient time to ensure bids are received and time stamped by the Office of Purchasing & Contracting prior to the time of the bid opening.
4.5.3 **Express Delivery:** If bids are being sent via an express delivery service, be certain that the RFP designation is clearly shown on the outside of the delivery envelope or box. Express delivery packages will not be considered received by the State until the express delivery package has been received and time stamped by the Office of Purchasing & Contracting. Due to security procedures express deliveries must be received by 10:30 AM in order to be received by the Office of Purchasing & Contracting that same day.

4.5.4 **Hand Delivery:** Hand carried bids shall be delivered to a representative of the Office of Purchasing & Contracting prior to the bid opening.

4.5.5 **Electronic:** Electronic bids will not be accepted.

4.5.6 **Fax Bids:** Faxed bids will not be accepted.
5 BID EVALUATION AND SELECTION

5.1 Worker Classification Compliance Requirements: In accordance with Section 32 of The Vermont Recovery and Reinvestment Act of 2009 (Act No. 54), Bidders must comply with the following provisions and requirements.

5.1.1 Self Reporting: For bid amounts exceeding $250,000.00, Bidder shall complete the appropriate section in the attached Certificate of Compliance for purposes of self-reporting information relating to past violations, convictions, suspensions, and any other information related to past performance relative to coding and classification of workers. The State is requiring information on any violations that occurred in the previous 12 months.

5.1.2 Subcontractor Reporting: For bid amounts exceeding $250,000.00, Bidders are hereby notified that upon award of contract, and prior to contract execution, the State shall be provided with a list of all proposed subcontractors and subcontractors’ subcontractors, together with the identity of those subcontractors’ workers compensation insurance providers, and additional required or requested information, as applicable, in accordance with Section 32 of The Vermont Recovery and Reinvestment Act of 2009 (Act No. 54). This requirement does not apply to subcontractors providing supplies only and no labor to the overall contract or project. This list MUST be updated and provided to the State as additional subcontractors are hired. A sample form is available online Section – Standard RFP Attachments - [http://bgs.vermont.gov/purchasing-contracting/forms](http://bgs.vermont.gov/purchasing-contracting/forms). The subcontractor reporting form is not required to be submitted with the bid response (Reference Exhibit B).

5.2 Executive Order 05-16: Climate Change Considerations in State Procurements

For bid amounts exceeding $25,000.00 Bidders are requested to complete the Climate Change Considerations in State Procurements Certification, which is included in the Certificate of Compliance for this RFP.

After consideration of all relevant factors, a bidder that demonstrates business practices that promote clean energy and address climate change as identified in the Certification, shall be given favorable consideration in the competitive bidding process. Such favorable consideration shall be consistent with and not supersede any preference given to resident bidders of the State and/or products raised or manufactured in the State, as explained in the Method of Award section. But, such favorable consideration shall not be employed if prohibited by law or other relevant authority or agreement.

5.3 Method of Award

Awards will be made in the best interest of the Secure Retirement Plan and the State. The State may award one or more contracts and reserves the right to make additional awards to other compliant bidders at any time if such award is deemed to be in the best interest of the State. All other considerations being equal, preference will be given first to resident bidders of the state and/or to
products raised or manufactured in the state, and then to bidders who have practices that promote clean energy and address climate change, as identified in the applicable Certificate of Compliance.

### 5.3.1 Evaluation Criteria

The State shall have the authority to evaluate Responses and select the Bidder(s) determined to be in the best interest of the State and consistent with the goals and performance requirements outlined in this RFP.

Bids will be evaluated as outlined below and, in general, be awarded in the best interest of the Secure Retirement Plan and the State of Vermont.

<table>
<thead>
<tr>
<th>Evaluation Factors</th>
<th>Total Points for This Factor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bidder Profile: Experience, Financial Strength, References</td>
<td>20%</td>
</tr>
<tr>
<td>Extent of Respondent’s Willingness to Accept Fiduciary Responsibilities</td>
<td>20%</td>
</tr>
<tr>
<td>Implementation Services: Program Marketing, Program Administration, Customer Service, Investment Management and Custodial Services, Oversight, Reporting and Data Analytics</td>
<td>25%</td>
</tr>
<tr>
<td>Pricing</td>
<td>25%</td>
</tr>
<tr>
<td>Bidder Demonstration - Interview</td>
<td>10%</td>
</tr>
<tr>
<td>Acceptance of State Terms and Conditions</td>
<td>Pass/Fail</td>
</tr>
<tr>
<td>Adherence to Mandatory Bidding Requirements</td>
<td>Pass/Fail</td>
</tr>
<tr>
<td>Minimum Qualifications</td>
<td>Pass/Fail</td>
</tr>
</tbody>
</table>
5.4 Demonstration

An in-person or webinar demonstration by the Bidder may be required by the State if it will help the State’s evaluation process. The State will factor information presented during demonstrations into the evaluation. Bidders will be responsible for all costs associated with providing the demonstration.

5.5 Best and Final Offer

5.5.1 Best and Final Offer (BAFO). At any time after submission of Responses and prior to the final selection of Bidder(s) for Contract negotiation or execution, the State may invite Bidder(s) to provide a BAFO.

5.5.2 The state reserves the right to request BAFOs from only those Bidders that meet the minimum qualification requirements and/or have not been eliminated from consideration during the evaluation process.

5.5.3 Evaluation of Responses and Selection of Bidder(s). The State shall have the authority to evaluate Responses and select the Bidder(s) as may be determined to be in the best interest of the State and consistent with the goals and performance requirements outlined in this RFP.

5.6 Contract Negotiation

Upon completion of the evaluation process, the State may select one or more Vendors with which to negotiate a contract, based on the evaluation findings and other criteria deemed relevant for ensuring that the decision made is in the best interest of the State. In the event the State is successful in negotiating with a Vendor, the State will issue a notice of award. In the event State is not successful in negotiating a contract with a selected Vendor, the State reserves the option of negotiating with another Vendor, or to end the proposal process entirely.
**6.1 STATEMENT OF RIGHTS:** The State of Vermont reserves the right to obtain clarification or additional information necessary to properly evaluate a proposal. Vendors may be asked to give a verbal presentation of their proposal after submission. Failure of vendor to respond to a request for additional information or clarification could result in rejection of that vendor’s proposal. To secure a project that is deemed to be in the best interest of the State, the State reserves the right to accept or reject any and all bids, in whole or in part, with or without cause, and to waive technicalities in submissions. The State also reserves the right to make purchases outside of the awarded contracts where it is deemed in the best interest of the State.

**6.2 Pricing:** Bidders must price the terms of this solicitation at their best pricing. Any and all costs that Bidder wishes the State to consider must be submitted for consideration. If applicable, all equipment pricing is to include F.O.B. delivery to the ordering facility. No request for extra delivery cost will be honored. All equipment shall be delivered assembled, serviced, and ready for immediate use, unless otherwise requested by the State.

6.2.1 The proposal must be fixed cost, inclusive of expenses, for specific deliverables. The State generally doesn’t enter into time and material contracts.

6.2.2 Prices and/or rates shall remain firm for the initial term of the contract. The pricing policy submitted by Bidder must (i) be clearly structured, accountable, and auditable and (ii) cover the full spectrum of materials and/or services required. If the project contemplates doing additional work with the vendor for additions to the system or addition of new users, state the hourly rates for future work for key types of positions, i.e., Data Base Programmer, Systems Developer, Trainer, etc.

6.2.3 Cooperative Agreements. Bidders that have been awarded similar contracts through a competitive bidding process with another state and/or cooperative are welcome to submit the pricing in response to this solicitation.

**6.3 CONTRACTING WITH THE STATE OF VERMONT:** The selected bidder(s) will be expected to sign a contract with the State according to the form prescribed by the Standard State Contract Form and its associated Attachments which is attached to this RFP as Exhibit D. The contract will obligate the bidder to provide the services and/or products identified in its bid, at the prices listed.

6.3.1 Vendors planning to submit a bid are advised of the following:

1. The State expects the Vendor and its legal counsel to carefully review and be prepared to be bound by the Attachment C: **Standard State Provisions for Contracts and Grants** outlined in Exhibit D.

2. The contract is subject to review and approval by the Attorney General, the Agency of Digital Services and the Secretary of Administration. The terms and conditions of a Vendor’s software license, maintenance support agreement and service level agreement, if applicable, will be required for purposes of contract negotiations for this project. Failure to provide the applicable Vendor terms as part of the RFP response may result in rejection of the Vendor’s proposal.
3. The State has no legal authority to indemnify a vendor and this condition is not negotiable. Further, all contract terms and conditions, including a Vendor license will be subject to the laws of the State of Vermont and any action or proceeding brought by either the State or a Contractor in connection with a Contract shall be brought and enforced in the Superior Court of the State of Vermont, Civil Division, Washington Unit. Vendors who are not able to enter into a contract under these conditions should not submit a bid.

4. Contractors will be expected to make the representations and warranties set forth in the State Contract Terms.

6.4 Non-Disclosure Agreement

The successful bidder may be required to complete a non-disclosure agreement in a form acceptable to the State.

6.5 Performance Measures

In accordance with current State of Vermont policy and procedures, the contract may include Vendor performance measures. The specific performance measures will be determined during the contract negotiation process.

6.6 Contract Term

**Contract Period:** Contracts arising from this RFP are anticipated to be for a service period of five years with the potential for up to two additional five-year periods.

The vendor should guarantee its rate offerings, over the term of the contract, are comparable to other customers of similar size and requirements. If offerings are rendered to a comparable customer which improve the pricing agreed to in the contract, the vendor agrees to apply those same discounts and offerings to the State of Vermont.

6.7 Specification Change

Any changes or variations in the requirements or specifications set forth in this RFP will result in the issuance of an Addendum to this RFP in writing from the Office of Purchasing & Contracting. Verbal instructions or written instructions from any other source are not to be considered.

6.8 Business Registration

To be awarded a contract by the State of Vermont, a Vendor (except an individual doing business in his/her own name) must be registered with the Vermont Secretary of State’s office [http://www.sec.state.vt.us/tutor/dobiz/forms/fcregist.htm](http://www.sec.state.vt.us/tutor/dobiz/forms/fcregist.htm) and must obtain a Contractor’s Business Account Number issued by the Vermont Department of Taxes [http://tax.vermont.gov/](http://tax.vermont.gov/).

6.9 Quality

If applicable, all products provided under a contract with the State will be new and unused, unless otherwise stated. Factory seconds or remanufactured products will not be accepted unless specifically requested by the purchasing agency. All products provided by the contractor must meet all federal, state, and local standards for quality and safety requirements. Products not meeting these standards will be deemed unacceptable and returned to the contractor for credit at no charge to the State.
6.10 Costs of Preparation

The Vendor shall be solely responsible for all expenses incurred in the preparation of a response to this RFP and shall be responsible for all expenses associated with any presentations or demonstrations associated with this request and/or any proposals made.

6.11 Exhibits included with this RFP:

Exhibit A: Certificate of Compliance
Exhibit B: Subcontractor Reporting Form
Exhibit C: Cost Proposal
Exhibit D: State of Vermont Standard Contract for Services and its associated Attachments
• Attachment A: Statement of Work
• Attachment B: Payment Provisions
• Attachment C: Standard State Provisions for Contracts and Grants
• Attachment D: Other Terms and Conditions for Information Technology Contracts
EXHIBIT A

CERTIFICATE OF COMPLIANCE

For a bid to be considered valid, this form must be completed in its entirety, executed by a duly authorized representative of the bidder, and submitted as part of the response to the proposal.

A. NON COLLUSION: Bidder hereby certifies that the prices quoted have been arrived at without collusion and that no prior information concerning these prices has been received from or given to a competitive company. If there is sufficient evidence to warrant investigation of the bid/contract process by the Office of the Attorney General, bidder understands that this paragraph might be used as a basis for litigation.

B. CONTRACT TERMS: Bidder hereby acknowledges that it has read, understands and agrees to the terms of this RFP, including Attachment C: Standard State Provisions for Contracts and Grants, and any other contract attachments included with this RFP.

C. WORKER CLASSIFICATION COMPLIANCE REQUIREMENT: In accordance with Section 32 of The Vermont Recovery and Reinvestment Act of 2009 (Act No. 54), the following provisions and requirements apply to Bidder when the amount of its bid exceeds $250,000.00.

Self-Reporting. Bidder hereby self-reports the following information relating to past violations, convictions, suspensions, and any other information related to past performance relative to coding and classification of workers, that occurred in the previous 12 months.

<table>
<thead>
<tr>
<th>Summary of Detailed Information</th>
<th>Date of Notification</th>
<th>Outcome</th>
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Subcontractor Reporting. Bidder hereby acknowledges and agrees that if it is a successful bidder, prior to execution of any contract resulting from this RFP, Bidder will provide to the State a list of all proposed subcontractors and subcontractors’ subcontractors, together with the identity of those subcontractors’ workers compensation insurance providers, and additional required or requested information, as applicable, in accordance with Section 32 of The Vermont Recovery and Reinvestment Act of 2009 (Act No. 54), and Bidder will provide any update of such list to the State as additional subcontractors are hired. Bidder further acknowledges and agrees that the failure to submit subcontractor reporting in accordance with Section 32 of The Vermont Recovery and Reinvestment Act of 2009 (Act No. 54) will constitute non-compliance and may result in cancellation of contract and/or restriction from bidding on future state contracts.
D. Executive Order 05 – 16: Climate Change Considerations in State Procurements Certification

Bidder certifies to the following (Bidder may attach any desired explanation or substantiation. Please also note that Bidder may be asked to provide documentation for any applicable claims):

1. Bidder owns, leases or utilizes, for business purposes, space that has received:
   - Energy Star® Certification
   - LEED®, Green Globes®, or Living Buildings Challenge℠ Certification
   - Other internationally recognized building certification:

   __________________________________________________________________________

2. Bidder has received incentives or rebates from an Energy Efficiency Utility or Energy Efficiency Program in the last five years for energy efficient improvements made at bidder’s place of business. Please explain:

   __________________________________________________________________________

3. Please Check all that apply:
   - Bidder can claim on-site renewable power or anaerobic-digester power ("cow-power"). Or bidder consumes renewable electricity through voluntary purchase or offset, provided no such claimed power can be double-claimed by another party.
   - Bidder uses renewable biomass or bio-fuel for the purposes of thermal (heat) energy at its place of business.
   - Bidder’s heating system has modern, high-efficiency units (boilers, furnaces, stoves, etc.), having reduced emissions of particulate matter and other air pollutants.
   - Bidder tracks its energy consumption and harmful greenhouse gas emissions. What tool is used to do this? ______________________
   - Bidder promotes the use of plug-in electric vehicles by providing electric vehicle charging, electric fleet vehicles, preferred parking, designated parking, purchase or lease incentives, etc.
   - Bidder offers employees an option for a fossil fuel divestment retirement account.
   - Bidder offers products or services that reduce waste, conserve water, or promote energy efficiency and conservation. Please explain:

   __________________________________________________________________________

4. Please list any additional practices that promote clean energy and take action to address climate change:

   __________________________________________________________________________

   __________________________________________________________________________

   __________________________________________________________________________
E. Acknowledge receipt of the following Addenda:

Addendum No.: ___________________  Dated:_________________
Addendum No.: ___________________  Dated:_________________
Addendum No.: ___________________  Dated:_________________

Bidder Name: ____________________  Contact Name: ________________
Address: _________________________  Fax Number: ________________
Telephone: ________________________  E-Mail: ___________________

By: ______________________________  Name: _______________________
   Signature of Bidder (or Representative)  (Type or Print)

END OF CERTIFICATE OF COMPLIANCE
EXHIBIT B

SUBCONTRACTOR REPORTING FORM

This form must be completed in its entirety and submitted prior to contract execution and updated as necessary and provided to the State as additional subcontractors are hired.

The Department of Buildings and General Services in accordance with Act 54, Section 32 of the Acts of 2009 and for total project costs exceeding $250,000.00 requires bidders to comply with the following provisions and requirements.

Contractor is required to provide a list of subcontractors on the job along with lists of subcontractor’s subcontractors and by whom those subcontractors are insured for workers’ compensation purposes. Include additional pages if necessary. This is not a requirement for subcontractor’s providing supplies only and no labor to the overall contract or project.

<table>
<thead>
<tr>
<th>Subcontractor</th>
<th>Insured By</th>
<th>Subcontractor’s Sub</th>
<th>Insured By</th>
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Date: ____________

Name of Company: ___________________________  Contact Name: ___________________________

Address: ___________________________  Title: ___________________________

_________________________________________  Phone Number: ___________________________

E-mail: ___________________________  Fax Number: ___________________________

By: ___________________________  Name: ___________________________

Failure to adhere to Act 54, Section 32 of the Acts of 2009 and submit Subcontractor Reporting: Worker Classification Compliance Requirement will constitute non-compliance and may result in cancellation of contract and/or forfeiture of future bidding privileges until resolved.

Send Completed Form to: Office of Purchasing & Contracting
109 State Street
Montpelier, VT 05609-3001
Attention: Contract Administration
EXHIBIT C

State of Vermont Bidder Cost Proposal

All costs for the Program will be paid by Participants. To ensure success, Program implementation and all MEP ongoing servicing and operations must be affordable to Participants. The Respondent must provide a Primary Cost Proposal that includes all proposed fees for the service approach outlined in the Respondent’s Proposed Approach and Timeline. Alternative Cost Proposals may also be submitted.

1. Please clearly describe your Cost Proposal. In recognition of the start-up nature of the program, Respondents are encouraged to suggest cost structures that factor in program growth. Describe all program management or administrative fees your firm is proposing to collect from Participant accounts. Fee structures may include annual basis points for total assets under management and/or dollars per account or alternative structures. Provide a written description and explanation of each fee, if it is not self-explanatory. If the Respondent is proposing annual account fees, please specify any exceptions or waivers to such fees.

2. Fully describe any activity-based fees that may be charged to or assessed from a Participant’s account including:

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<thead>
<tr>
<th>Services</th>
<th>Fee</th>
<th>Comments</th>
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<tr>
<td>Participant investment advisory services</td>
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<td>Managed account services</td>
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<td>Loan set-up</td>
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<td>Loan maintenance</td>
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<td>Hardship Qualifications</td>
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<td>Wire Fees</td>
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<td>Non-periodic Withdrawals (lump or partial sums)</td>
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<td>Periodic Withdrawal Set-up</td>
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<td>Periodic Withdrawal Maintenance</td>
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<tr>
<td>Other (be specific)</td>
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3. Describe any variations such as varying charges based on the size of an account, usage of various services or features or based on transactions such as contributions, withdrawals, investment transfers or activities. Describe any and all other fees or revenue associated with or related to the Program, as noted, any amounts, fees, revenue from outside sources such as commissions, placement fees or similar compensation must be disclosed.
4. Fully describe any additional fees, charges, expenses, costs, revenue, income or other items of value associated with the administration of the Secure Retirement Plan. This includes amounts, fees, and revenue from outside sources such as commissions, placement fees or similar compensation. As a requirement to contracting with the Board, confirm your ability to specifically disclose all revenues received from the investment options you offer to the Program. Describe the timing, methodology and any restrictions on your reporting to the Board.

5. Please indicate whether the fees the Respondent lists would increase or decrease as the asset base or number of accounts increase. If so, provide the expected break-points for those fee for each of your cost proposals below. Specify the factors you would consider in determining future fee decreases, including asset or participant breakpoints under the contract (this would include the returning revenue sharing to Participant accounts). Describe your firm’s willingness to provide fee reductions or breakpoints when certain milestones are achieved by Secure Retirement. Identify the milestones and the corresponding fee reductions.

If the Respondent is also proposing to include an array of investment options in its service proposal:

1. Detail any minimum proprietary fund requirements you would have for the menu of investment options in your proposal.

2. Fully describe the process and associated costs with replacing or adding investment options within the Secure Retirement Plan. Fully describe any limitations on this process that you would require.

3. If Respondent intends to include registered mutual funds, index funds, separately managed accounts or Exchange Traded Funds (“ETF”) in the investments for the Secure Retirement Plan, please provide the fund name, ticker, and fund expense ratio for each fund proposed.

4. Describe all investment management fees charged on your proposed investment structure detailed above. Show the fees of each underlying fund that your firm is proposing to use. Break out fees by category, such as investment management, marketing, etc.

5. For each fund proposed also provide the revenue sharing amounts that will be paid from each fund listed.

**Fiduciary Services**

As noted in the Summary of Changes, the State is not requiring a Respondent to assume fiduciary responsibility. If your firm is not proposing to assume liability, please indicate. If your firm is proposing such services, respond to the following questions and provide additional detail and information as warranted.

1. Indicate whether your firm is proposing fiduciary services. (Y/N)

2. If yes, describe your ability to assume fiduciary responsibility for your proposed and future funds under ERISA:
   
   i) Section 402(a)(1),
   ii) Section 3(16),
   iii) Section 3(21),
   iv) Section 3(38), and/or
   v) Any other fiduciary roles/responsibilities (describe in detail)
Separately identify and include your firm’s associated costs for these fiduciary services in each Cost Proposal.

**Alternative Cost Proposals**

Respondents are permitted to make Alternative Cost Proposals for the Board’s consideration. These Alternative Cost Proposals may include any alternative service approaches that the Board should consider. These alternative service approaches and their benefits must be fully described. Alternative Cost Proposals should provide at a minimum, as applicable, all of the information requested under the Primary Cost Proposal and in a manner consistent with the Primary Cost Proposal.

**Additional Information**

1. Secure Retirement is a voluntary MEP and is dependent on the efforts of the selected firm to ensure a successful Program. For the expected contract term, provide your projections for the enrollment of eligible Employers and the level of participation of Employees who have been auto-enrolled in the Program. In addition, provide your estimates of projected assets at the end of each of the expected contract years.

2. Secure Retirement does not require Employers to pay any fees or costs to offer the Program to its Employees. Describe how you would structure Program administration to allow an Employer to voluntarily pay certain costs such as plan set up or other ongoing or recurring administrative costs.

3. Provide other alternatives not outlined in this proposal that could result in the lowering of participant fees. Be clear in your response and provide each condition and the result.
EXHIBIT D

State of Vermont
Standard Contract For Services
STANDARD CONTRACT FOR SERVICES

1. **Parties.** This is a contract for services between the State of Vermont, [State Name] (hereinafter called “State”), and [Contractor Name], with a principal place of business in [Enterprise Address], (hereinafter called “Contractor”). Contractor’s form of business organization is [Business Type]. It is Contractor’s responsibility to contact the Vermont Department of Taxes to determine if, by law, Contractor is required to have a Vermont Department of Taxes Business Account Number.

2. **Subject Matter.** The subject matter of this contract is services generally on the subject of [Service Subject]. Detailed services to be provided by Contractor are described in Attachment A.

3. **Maximum Amount.** In consideration of the services to be performed by Contractor, the State agrees to pay Contractor, in accordance with the payment provisions specified in Attachment B, a sum not to exceed $[Maximum Amount].00.

4. **Contract Term.** The period of Contractor’s performance shall begin on [Start Date], 20[Year] and end on [End Date], 20[Year].

5. **Prior Approvals.** This Contract shall not be binding unless and until all requisite prior approvals have been obtained in accordance with current State law, bulletins, and interpretations.

6. **Amendment.** No changes, modifications, or amendments in the terms and conditions of this contract shall be effective unless reduced to writing, numbered and signed by the duly authorized representative of the State and Contractor.

7. **Termination for Convenience.** This contract may be terminated by the State at any time by giving written notice at least thirty (30) days in advance. In such event, Contractor shall be paid under the terms of this contract for all services provided to and accepted by the State prior to the effective date of termination.

8. **Attachments.** This contract consists of [Number] pages including the following attachments which are incorporated herein:

   - Attachment A - Statement of Work
   - Attachment B - Payment Provisions
   - Attachment D - Other Provisions (if any)
   - Additional attachments may be lettered as necessary
9. **Order of Precedence.** Any ambiguity, conflict or inconsistency between the documents comprising this contract shall be resolved according to the following order of precedence:

   (1) Standard Contract  
   (2) Attachment D (if applicable)  
   (3) Attachment C (Standard State Provisions for Contracts and Grants)  
   (4) Attachment A  
   (5) Attachment B  

**List other attachments, if any, in order of precedence**

WE THE UNDERSIGNED PARTIES AGREE TO BE BOUND BY THIS CONTRACT

By the State of Vermont:  
Date: __________________________  
Signature: ______________________  
Name: __________________________  
Title: __________________________

By the Contractor:  
Date: __________________________  
Signature: ______________________  
Name: __________________________  
Title: __________________________
ATTACHMENT A – STATEMENT OF WORK

The Contractor shall:
ATTACHMENT C: STANDARD STATE PROVISIONS
FOR CONTRACTS AND GRANTS
REVISED DECEMBER 15, 2017

1. Definitions: For purposes of this Attachment, “Party” shall mean the Contractor, Grantee or Subrecipient, with whom the State of Vermont is executing this Agreement and consistent with the form of the Agreement. “Agreement” shall mean the specific contract or grant to which this form is attached.

2. Entire Agreement: This Agreement, whether in the form of a contract, State-funded grant, or Federally-funded grant, represents the entire agreement between the parties on the subject matter. All prior agreements, representations, statements, negotiations, and understandings shall have no effect.

3. Governing Law, Jurisdiction and Venue; No Waiver of Jury Trial: This Agreement will be governed by the laws of the State of Vermont. Any action or proceeding brought by either the State or the Party in connection with this Agreement shall be brought and enforced in the Superior Court of the State of Vermont, Civil Division, Washington Unit. The Party irrevocably submits to the jurisdiction of this court for any action or proceeding regarding this Agreement. The Party agrees that it must first exhaust any applicable administrative remedies with respect to any cause of action that it may have against the State with regard to its performance under this Agreement. Party agrees that the State shall not be required to submit to binding arbitration or waive its right to a jury trial.

4. Sovereign Immunity: The State reserves all immunities, defenses, rights or actions arising out of the State’s sovereign status or under the Eleventh Amendment to the United States Constitution. No waiver of the State’s immunities, defenses, rights or actions shall be implied or otherwise deemed to exist by reason of the State’s entry into this Agreement.

5. No Employee Benefits For Party: The Party understands that the State will not provide any individual retirement benefits, group life insurance, group health and dental insurance, vacation or sick leave, workers compensation or other benefits or services available to State employees, nor will the State withhold any state or Federal taxes except as required under applicable tax laws, which shall be determined in advance of execution of the Agreement. The Party understands that all tax returns required by the Internal Revenue Code and the State of Vermont, including but not limited to income, withholding, sales and use, and rooms and meals, must be filed by the Party, and information as to Agreement income will be provided by the State of Vermont to the Internal Revenue Service and the Vermont Department of Taxes.

6. Independence: The Party will act in an independent capacity and not as officers or employees of the State.

7. Defense and Indemnity: The Party shall defend the State and its officers and employees against all third party claims or suits arising in whole or in part from any act or omission of the Party or of any agent of the Party in connection with the performance of this Agreement. The State shall notify the Party in the event of any such claim or suit, and the Party shall immediately retain counsel and otherwise provide a complete defense against the entire claim or suit. The State retains the right to participate at its own expense in the defense of any claim. The State shall have the right to approve all proposed settlements of such claims or suits.

After a final judgment or settlement, the Party may request recoupment of specific defense costs and may file suit in Washington Superior Court requesting recoupment. The Party shall be entitled to recoup costs only upon a showing that such costs were entirely unrelated to the defense of any claim arising from an act or omission of the Party in connection with the performance of this Agreement.

The Party shall indemnify the State and its officers and employees if the State, its officers or employees become legally obligated to pay any damages or losses arising from any act or omission of the Party or an agent of the Party in connection with the performance of this Agreement.

Notwithstanding any contrary language anywhere, in no event shall the terms of this Agreement or any document furnished by the Party in connection with its performance under this Agreement obligate the State to (1) defend or indemnify the Party or any third party, or (2) otherwise be liable for the expenses or reimbursement, including attorneys’ fees, collection costs or other costs of the Party or any third party.
8. **Insurance:** Before commencing work on this Agreement the Party must provide certificates of insurance to show that the following minimum coverages are in effect. It is the responsibility of the Party to maintain current certificates of insurance on file with the State through the term of this Agreement. No warranty is made that the coverages and limits listed herein are adequate to cover and protect the interests of the Party for the Party’s operations. These are solely minimums that have been established to protect the interests of the State.

*Workers Compensation:* With respect to all operations performed, the Party shall carry workers’ compensation insurance in accordance with the laws of the State of Vermont. Vermont will accept an out-of-state employer’s workers’ compensation coverage while operating in Vermont provided that the insurance carrier is licensed to write insurance in Vermont and an amendatory endorsement is added to the policy adding Vermont for coverage purposes. Otherwise, the party shall secure a Vermont workers’ compensation policy, if necessary to comply with Vermont law.

*General Liability and Property Damage:* With respect to all operations performed under this Agreement, the Party shall carry general liability insurance having all major divisions of coverage including, but not limited to:

- Premises - Operations
- Products and Completed Operations
- Personal Injury Liability
- Contractual Liability

The policy shall be on an occurrence form and limits shall not be less than:

- $1,000,000 Each Occurrence
- $2,000,000 General Aggregate
- $1,000,000 Products/Completed Operations Aggregate
- $1,000,000 Personal & Advertising Injury

*Automotive Liability:* The Party shall carry automotive liability insurance covering all motor vehicles, including hired and non-owned coverage, used in connection with the Agreement. Limits of coverage shall not be less than $500,000 combined single limit. If performance of this Agreement involves construction, or the transport of persons or hazardous materials, limits of coverage shall not be less than $1,000,000 combined single limit.

*Additional Insured.* The General Liability and Property Damage coverages required for performance of this Agreement shall include the State of Vermont and its agencies, departments, officers and employees as Additional Insureds. If performance of this Agreement involves construction, or the transport of persons or hazardous materials, then the required Automotive Liability coverage shall include the State of Vermont and its agencies, departments, officers and employees as Additional Insureds. Coverage shall be primary and non-contributory with any other insurance and self-insurance.

*Notice of Cancellation or Change.* There shall be no cancellation, change, potential exhaustion of aggregate limits or non-renewal of insurance coverage(s) without thirty (30) days written prior written notice to the State.

9. **Reliance by the State on Representations:** All payments by the State under this Agreement will be made in reliance upon the accuracy of all representations made by the Party in accordance with this Agreement, including but not limited to bills, invoices, progress reports and other proofs of work.

10. **False Claims Act:** The Party acknowledges that it is subject to the Vermont False Claims Act as set forth in 32 V.S.A. § 630 et seq. If the Party violates the Vermont False Claims Act it shall be liable to the State for civil penalties, treble damages and the costs of the investigation and prosecution of such violation, including attorney’s fees, except as the same may be reduced by a court of competent jurisdiction. The Party’s liability to the State under the False Claims Act shall not be limited notwithstanding any agreement of the State to otherwise limit Party’s liability.

11. **Whistleblower Protections:** The Party shall not discriminate or retaliate against one of its employees or agents for disclosing information concerning a violation of law, fraud, waste, abuse of authority or acts threatening health or safety, including but not limited to allegations concerning the False Claims Act. Further, the Party shall not require such employees or agents to forego monetary awards as a result of such disclosures, nor should they be
required to report misconduct to the Party or its agents prior to reporting to any governmental entity and/or the public.

12. **Location of State Data:** No State data received, obtained, or generated by the Party in connection with performance under this Agreement shall be processed, transmitted, stored, or transferred by any means outside the continental United States, except with the express written permission of the State.

13. **Records Available for Audit:** The Party shall maintain all records pertaining to performance under this agreement. “Records” means any written or recorded information, regardless of physical form or characteristics, which is produced or acquired by the Party in the performance of this agreement. Records produced or acquired in a machine readable electronic format shall be maintained in that format. The records described shall be made available at reasonable times during the period of the Agreement and for three years thereafter or for any period required by law for inspection by any authorized representatives of the State or Federal Government. If any litigation, claim, or audit is started before the expiration of the three-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.

14. **Fair Employment Practices and Americans with Disabilities Act:** Party agrees to comply with the requirement of 21 V.S.A. Chapter 5, Subchapter 6, relating to fair employment practices, to the full extent applicable. Party shall also ensure, to the full extent required by the Americans with Disabilities Act of 1990, as amended, that qualified individuals with disabilities receive equitable access to the services, programs, and activities provided by the Party under this Agreement.

15. **Set Off:** The State may set off any sums which the Party owes the State against any sums due the Party under this Agreement; provided, however, that any set off of amounts due the State of Vermont as taxes shall be in accordance with the procedures more specifically provided hereinafter.

16. **Taxes Due to the State:**
   A. Party understands and acknowledges responsibility, if applicable, for compliance with State tax laws, including income tax withholding for employees performing services within the State, payment of use tax on property used within the State, corporate and/or personal income tax on income earned within the State.
   B. Party certifies under the pains and penalties of perjury that, as of the date this Agreement is signed, the Party is in good standing with respect to, or in full compliance with, a plan to pay any and all taxes due the State of Vermont.
   C. Party understands that final payment under this Agreement may be withheld if the Commissioner of Taxes determines that the Party is not in good standing with respect to or in full compliance with a plan to pay any and all taxes due the State of Vermont.
   D. Party also understands the State may set off taxes (and related penalties, interest and fees) due to the State of Vermont, but only if the Party has failed to make an appeal within the time allowed by law, or an appeal has been taken and finally determined and the Party has no further legal recourse to contest the amounts due.

17. **Taxation of Purchases:** All State purchases must be invoiced tax free. An exemption certificate will be furnished upon request with respect to otherwise taxable items.

18. **Child Support:** (Only applicable if the Party is a natural person, not a corporation or partnership.) Party states that, as of the date this Agreement is signed, he/she:
   A. is not under any obligation to pay child support; or
   B. is under such an obligation and is in good standing with respect to that obligation; or
   C. has agreed to a payment plan with the Vermont Office of Child Support Services and is in full compliance with that plan.

Party makes this statement with regard to support owed to any and all children residing in Vermont. In addition, if the Party is a resident of Vermont, Party makes this statement with regard to support owed to any and all children residing in any other state or territory of the United States.
19. Sub-Agreements: Party shall not assign, subcontract or subgrant the performance of this Agreement or any portion thereof to any other Party without the prior written approval of the State. Party shall be responsible and liable to the State for all acts or omissions of subcontractors and any other person performing work under this Agreement pursuant to an agreement with Party or any subcontractor.

In the case this Agreement is a contract with a total cost in excess of $250,000, the Party shall provide to the State a list of all proposed subcontractors and subcontractors’ subcontractors, together with the identity of those subcontractors’ workers compensation insurance providers, and additional required or requested information, as applicable, in accordance with Section 32 of The Vermont Recovery and Reinvestment Act of 2009 (Act No. 54).

Party shall include the following provisions of this Attachment C in all subcontracts for work performed solely for the State of Vermont and subcontracts for work performed in the State of Vermont: Section 10 (“False Claims Act”); Section 11 (“Whistleblower Protections”); Section 12 (“Location of State Data”); Section 14 (“Fair Employment Practices and Americans with Disabilities Act”); Section 16 (“Taxes Due the State”); Section 18 (“Child Support”); Section 20 (“No Gifts or Gratuities”); Section 22 (“Certification Regarding Debarment”); Section 30 (“State Facilities”); and Section 32.A (“Certification Regarding Use of State Funds”).

20. No Gifts or Gratuities: Party shall not give title or possession of anything of substantial value (including property, currency, travel and/or education programs) to any officer or employee of the State during the term of this Agreement.

21. Copies: Party shall use reasonable best efforts to ensure that all written reports prepared under this Agreement are printed using both sides of the paper.

22. Certification Regarding Debarment: Party certifies under pains and penalties of perjury that, as of the date that this Agreement is signed, neither Party nor Party’s principals (officers, directors, owners, or partners) are presently debarred, suspended, proposed for debarment, declared ineligible or excluded from participation in Federal programs, or programs supported in whole or in part by Federal funds.

Party further certifies under pains and penalties of perjury that, as of the date that this Agreement is signed, Party is not presently debarred, suspended, nor named on the State’s debarment list at: http://bgs.vermont.gov/purchasing/debarment

23. Conflict of Interest: Party shall fully disclose, in writing, any conflicts of interest or potential conflicts of interest.

24. Confidentiality: Party acknowledges and agrees that this Agreement and any and all information obtained by the State from the Party in connection with this Agreement are subject to the State of Vermont Access to Public Records Act, 1 V.S.A. § 315 et seq.

25. Force Majeure: Neither the State nor the Party shall be liable to the other for any failure or delay of performance of any obligations under this Agreement to the extent such failure or delay shall have been wholly or principally caused by acts or events beyond its reasonable control rendering performance illegal or impossible (excluding strikes or lock-outs) (“Force Majeure”). Where Force Majeure is asserted, the nonperforming party must prove that it made all reasonable efforts to remove, eliminate or minimize such cause of delay or damages, diligently pursued performance of its obligations under this Agreement, substantially fulfilled all non-excused obligations, and timely notified the other party of the likelihood or actual occurrence of an event described in this paragraph.

26. Marketing: Party shall not refer to the State in any publicity materials, information pamphlets, press releases, research reports, advertising, sales promotions, trade shows, or marketing materials or similar communications to third parties except with the prior written consent of the State.

27. Termination:

   A. Non-Appropriation: If this Agreement extends into more than one fiscal year of the State (July 1 to June 30), and if appropriations are insufficient to support this Agreement, the State may cancel at the end of the
fiscal year, or otherwise upon the expiration of existing appropriation authority. In the case that this Agreement is a Grant that is funded in whole or in part by Federal funds, and in the event Federal funds become unavailable or reduced, the State may suspend or cancel this Grant immediately, and the State shall have no obligation to pay Subrecipient from State revenues.

B. Termination for Cause: Either party may terminate this Agreement if a party materially breaches its obligations under this Agreement, and such breach is not cured within thirty (30) days after delivery of the non-breaching party’s notice or such longer time as the non-breaching party may specify in the notice.

C. Termination Assistance: Upon nearing the end of the final term or termination of this Agreement, without respect to cause, the Party shall take all reasonable and prudent measures to facilitate any transition required by the State. All State property, tangible and intangible, shall be returned to the State upon demand at no additional cost to the State in a format acceptable to the State.

28. Continuity of Performance: In the event of a dispute between the Party and the State, each party will continue to perform its obligations under this Agreement during the resolution of the dispute until this Agreement is terminated in accordance with its terms.

29. No Implied Waiver of Remedies: Either party’s delay or failure to exercise any right, power or remedy under this Agreement shall not impair any such right, power or remedy, or be construed as a waiver of any such right, power or remedy. All waivers must be in writing.

30. State Facilities: If the State makes space available to the Party in any State facility during the term of this Agreement for purposes of the Party’s performance under this Agreement, the Party shall only use the space in accordance with all policies and procedures governing access to and use of State facilities which shall be made available upon request. State facilities will be made available to Party on an “AS IS, WHERE IS” basis, with no warranties whatsoever.

31. Requirements Pertaining Only to Federal Grants and Subrecipient Agreements: If this Agreement is a grant that is funded in whole or in part by Federal funds:

A. Requirement to Have a Single Audit: The Subrecipient will complete the Subrecipient Annual Report annually within 45 days after its fiscal year end, informing the State of Vermont whether or not a Single Audit is required for the prior fiscal year. If a Single Audit is required, the Subrecipient will submit a copy of the audit report to the granting Party within 9 months. If a single audit is not required, only the Subrecipient Annual Report is required.

For fiscal years ending before December 25, 2015, a Single Audit is required if the subrecipient expends $500,000 or more in Federal assistance during its fiscal year and must be conducted in accordance with OMB Circular A-133. For fiscal years ending on or after December 25, 2015, a Single Audit is required if the subrecipient expends $750,000 or more in Federal assistance during its fiscal year and must be conducted in accordance with 2 CFR Chapter I, Chapter II, Part 200, Subpart F. The Subrecipient Annual Report is required to be submitted within 45 days, whether or not a Single Audit is required.

B. Internal Controls: In accordance with 2 CFR Part II, §200.303, the Party must establish and maintain effective internal control over the Federal award to provide reasonable assurance that the Party is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States and the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

C. Mandatory Disclosures: In accordance with 2 CFR Part II, §200.113, Party must disclose, in a timely manner, in writing to the State, all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Failure to make required disclosures may result in the imposition of sanctions which may include disallowance of costs incurred, withholding of payments, termination of the Agreement, suspension/debarment, etc.

32. Requirements Pertaining Only to State-Funded Grants:
A. **Certification Regarding Use of State Funds:** If Party is an employer and this Agreement is a State-funded grant in excess of $1,001, Party certifies that none of these State funds will be used to interfere with or restrain the exercise of Party’s employee’s rights with respect to unionization.

B. **Good Standing Certification (Act 154 of 2016):** If this Agreement is a State-funded grant, Party hereby represents: (i) that it has signed and provided to the State the form prescribed by the Secretary of Administration for purposes of certifying that it is in good standing (as provided in Section 13(a)(2) of Act 154) with the Agency of Natural Resources and the Agency of Agriculture, Food and Markets, or otherwise explaining the circumstances surrounding the inability to so certify, and (ii) that it will comply with the requirements stated therein.

(End of Standard Provisions)
ATTACHMENT D

INFORMATION TECHNOLOGY SYSTEM IMPLEMENTATION
TERMS AND CONDITIONS (rev. 3/29/18)

1. MODIFICATIONS TO CONTRACTOR DOCUMENTS

The parties specifically agree that the Contractor Documents are hereby modified and superseded by Attachment C and this Attachment D.

“Contractor Documents” shall mean one or more document, agreement or other instrument required by Contractor in connection with the performance of the products and services being purchased by the State, regardless of format, including the license agreement, end user license agreement or similar document, any hyperlinks to documents contained in the Contractor Documents, agreement or other instrument and any other paper or “shrinkwrap,” “clickwrap,” “browserwrap” or other electronic version thereof.

2. NO SUBSEQUENT, UNILATERAL MODIFICATION OF TERMS BY CONTRACTOR

Notwithstanding any other provision or other unilateral license terms which may be issued by Contractor during the Term of this Contract, and irrespective of whether any such provisions have been proposed prior to or after the issuance of an order for the products and services being purchased by the State, as applicable, the components of which are licensed under the Contractor Documents, or the fact that such other agreement may be affixed to or accompany the products and services being purchased by the State, as applicable, upon delivery, the terms and conditions set forth herein shall supersede and govern licensing and delivery of all products and services hereunder.

3. TERM OF CONTRACTOR’S DOCUMENTS; PAYMENT TERMS

Contractor acknowledges and agrees that, to the extent a Contractor Document provides for alternate term or termination provisions, including automatic renewals, such sections shall be waived and shall have no force and effect. All Contractor Documents shall run concurrently with the term of this Contract; provided, however, to the extent the State has purchased a perpetual license to use the Contractor’s software, hardware or other services, such license shall remain in place unless expressly terminated in accordance with the terms of this Contract. Contractor acknowledges and agrees that, to the extent a Contractor Document provides for payment terms which differ from the payment terms set forth in Attachment B, such sections shall be waived and shall have no force and effect and the terms in Attachment B shall govern.

4. OWNERSHIP AND LICENSE IN DELIVERABLES

4.1 Contractor Intellectual Property. Contractor shall retain all right, title and interest in and to any work, ideas, inventions, discoveries, tools, methodology, computer programs, processes and improvements and any other intellectual property, tangible or intangible, that has been created by Contractor prior to entering into this Contract (“Contractor Intellectual Property”). Should the State require a license for the use of Contractor Intellectual Property in connection with the development or use of the items that Contractor is required to deliver to the State under this Contract, including
Work Product ("Deliverables"), the Contractor shall grant the State a royalty-free license for such development and use. For the avoidance of doubt, Work Product shall not be deemed to include Contractor Intellectual Property, provided the State shall be granted an irrevocable, perpetual, non-exclusive royalty-free license to use any such Contractor Intellectual Property that is incorporated into Work Product.

4.2 State Intellectual Property. The State shall retain all right, title and interest in and to (i) all content and all property, data and information furnished by or on behalf of the State or any agency, commission or board thereof, and to all information that is created under this Contract, including, but not limited to, all data that is generated under this Contract as a result of the use by Contractor, the State or any third party of any technology systems or knowledge bases that are developed for the State and used by Contractor hereunder, and all other rights, tangible or intangible; and (ii) all State trademarks, trade names, logos and other State identifiers, Internet uniform resource locators, State user name or names, Internet addresses and e-mail addresses obtained or developed pursuant to this Contract (collectively, “State Intellectual Property”).

Contractor may not use State Intellectual Property for any purpose other than as specified in this Contract. Upon expiration or termination of this Contract, Contractor shall return or destroy all State Intellectual Property and all copies thereof, and Contractor shall have no further right or license to such State Intellectual Property.

Contractor acquires no rights or licenses, including, without limitation, intellectual property rights or licenses, to use State Intellectual Property for its own purposes. In no event shall the Contractor claim any security interest in State Intellectual Property.

4.3 Work Product. All Work Product shall belong exclusively to the State, with the State having the sole and exclusive right to apply for, obtain, register, hold and renew, in its own name and/or for its own benefit, all patents and copyrights, and all applications and registrations, renewals and continuations thereof and/or any and all other appropriate protection. To the extent exclusive title and/or complete and exclusive ownership rights in and to any Work Product may not originally vest in the State by operation of law or otherwise as contemplated hereunder, Contractor shall immediately upon request, unconditionally and irrevocably assign, transfer and convey to the State all right, title and interest therein.

“Work Product” means any tangible or intangible ideas, inventions, improvements, modifications, discoveries, development, customization, configuration, methodologies or processes, designs, models, drawings, photographs, reports, formulas, algorithms, patterns, devices, compilations, databases, computer programs, work of authorship, specifications, operating instructions, procedures manuals or other documentation, technique, know-how, secret, or intellectual property right whatsoever or any interest therein (whether patentable or not patentable or registrable under copyright or similar statutes or subject to analogous protection), that is specifically made, conceived, discovered or reduced to practice by Contractor, either solely or jointly with others, pursuant to this Contract. Work Product does not include Contractor Intellectual Property or third party intellectual property.

To the extent delivered under this Contract, upon full payment to Contractor in accordance with Attachment B, and subject to the terms and conditions contained herein, Contractor hereby (i) assigns to State all rights in and to all Deliverables, except to the extent they include any Contractor Intellectual Property; and (ii) grants
to State a perpetual, non-exclusive, irrevocable, royalty-free license to use for State’s internal business purposes, any Contractor Intellectual Property included in the Deliverables in connection with its use of the Deliverables and, subject to the State’s obligations with respect to Confidential Information, authorize others to do the same on the State’s behalf. Except for the foregoing license grant, Contractor or its licensors retain all rights in and to all Contractor Intellectual Property.

The Contractor shall not sell or copyright a Deliverable without explicit permission from the State.

If the Contractor is operating a system or application on behalf of the State of Vermont, then the Contractor shall not make information entered into the system or application available for uses by any other party than the State of Vermont, without prior authorization by the State. Nothing herein shall entitle the State to pre-existing Contractor Intellectual Property or Contractor Intellectual Property developed outside of this Contract with no assistance from State.

[ALTERNATE OWNERSHIP LANGUAGE TO BE USED WHEN THE STATE WILL NOT OWN WORK PRODUCT OTHER THAN SYSTEM OUTPUT – MORE TYPICAL FOR SAAS]:

4.1 Contractor Intellectual Property

As between the parties, and subject to the terms and conditions of this Contract, Contractor and its third-party suppliers will retain ownership of all intellectual property rights in the [System], and any and all derivative works made to the [System] or any part thereof, as well as all Work Product provided to the State (“Contractor Proprietary Technology”). The State acquires no rights to Contractor Proprietary Technology except for the licensed interests granted under this Contract.

The term “Work Product” means all other materials, reports, manuals, visual aids, documentation, ideas, concepts, techniques, inventions, processes, or works of authorship developed, provided or created by Contractor or its employees or contractors during the course of performing work for the State (excluding any State Data or derivative works thereof and excluding any output from the [System] generated by the State’s use of the [System], including without limitation, reports, graphs, charts and modified State Data, but expressly including any form templates of such reports, graphs or charts by themselves that do not include the State Data).

Title, ownership rights, and all Intellectual Property Rights in and to the [System] will remain the sole property of Contractor or its suppliers. The State acknowledges that the source code is not covered by any license hereunder and will not be provided by Contractor. Except as set forth in this Contract, no right or implied license or right of any kind is granted to the State regarding the [System] or any part thereof. Nothing in this Contract confers upon either party any right to use the other party's trade names and trademarks, except for permitted license use in accordance with this Contract. All use of such marks by either party will inure to the benefit of the owner of such marks, use of which will be subject to specifications controlled by the owner.

4.2 State Intellectual Property; User Name

The State shall retain all right, title and interest in and to (i) all content and all property, data and information furnished by or on behalf of the State or any agency, commission or board thereof, and to all information that is created under this
Contract, including, but not limited to, all data that is generated under this Contract as a result of the use by Contractor, the State or any third party of any technology systems or knowledge bases that are developed for the State and used by Contractor hereunder, and all other rights, tangible or intangible; and (ii) all State trademarks, trade names, logos and other State identifiers, Internet uniform resource locators, State user name or names, Internet addresses and e-mail addresses obtained or developed pursuant to this Contract (collectively, “State Intellectual Property”).

Contractor may not collect, access or use State Intellectual Property for any purpose other than as specified in this Contract. Upon expiration or termination of this Contract, Contractor shall return or destroy all State Intellectual Property and all copies thereof, and Contractor shall have no further right or license to such State Intellectual Property.

Contractor acquires no rights or licenses, including, without limitation, intellectual property rights or licenses, to use State Intellectual Property for its own purposes. In no event shall the Contractor claim any security interest in State Intellectual Property.

5. CONFIDENTIALITY AND NON-DISCLOSURE; SECURITY BREACH REPORTING

5.1 For purposes of this Contract, confidential information will not include information or material which (a) enters the public domain (other than as a result of a breach of this Contract); (b) was in the receiving party’s possession prior to its receipt from the disclosing party; (c) is independently developed by the receiving party without the use of confidential information; (d) is obtained by the receiving party from a third party under no obligation of confidentiality to the disclosing party; or (e) is not exempt from disclosure under applicable State law.

5.2 Confidentiality of Contractor Information. The Contractor acknowledges and agrees that this Contract and any and all Contractor information obtained by the State in connection with this Contract are subject to the State of Vermont Access to Public Records Act, 1 V.S.A. § 315 et seq. The State will not disclose information for which a reasonable claim of exemption can be made pursuant to 1 V.S.A. § 317(c), including, but not limited to, trade secrets, proprietary information or financial information, including any formulae, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information which is not patented, which is known only to the Contractor, and which gives the Contractor an opportunity to obtain business advantage over competitors who do not know it or use it.

The State shall immediately notify Contractor of any request made under the Access to Public Records Act, or any request or demand by any court, governmental agency or other person asserting a demand or request for Contractor information. Contractor may, in its discretion, seek an appropriate protective order, or otherwise defend any right it may have to maintain the confidentiality of such information under applicable State law within three business days of the State’s receipt of any such request. Contractor agrees that it will not make any claim against the State if the State makes available to the public any information in accordance with the Access to Public Records Act or in response to a binding order from a court or governmental body or agency compelling its production. Contractor shall indemnify the State for any costs or expenses incurred by the State, including, but not limited to, attorneys’ fees.
awarded in accordance with 1 V.S.A. § 320, in connection with any action brought in connection with Contractor’s attempts to prevent or unreasonably delay public disclosure of Contractor’s information if a final decision of a court of competent jurisdiction determines that the State improperly withheld such information and that the improper withholding was based on Contractor’s attempts to prevent public disclosure of Contractor’s information.

The State agrees that (a) it will use the Contractor information only as may be necessary in the course of performing duties, receiving services or exercising rights under this Contract; (b) it will provide at a minimum the same care to avoid disclosure or unauthorized use of Contractor information as it provides to protect its own similar confidential and proprietary information; (c) except as required by the Access to Records Act, it will not disclose such information orally or in writing to any third party unless that third party is subject to a written confidentiality agreement that contains restrictions and safeguards at least as restrictive as those contained in this Contract; (d) it will take all reasonable precautions to protect the Contractor’s information; and (e) it will not otherwise appropriate such information to its own use or to the use of any other person or entity.

Contractor may affix an appropriate legend to Contractor information that is provided under this Contract to reflect the Contractor’s determination that any such information is a trade secret, proprietary information or financial information at time of delivery or disclosure.

5.3 Confidentiality of State Information. In performance of this Contract, and any exhibit or schedule hereunder, the Contractor acknowledges that certain State Data (as defined below), to which the Contractor may have access may contain individual federal tax information, personal protected health information and other individually identifiable information protected by State or federal law or otherwise exempt from disclosure under the State of Vermont Access to Public Records Act, 1 V.S.A. § 315 et seq. (“State Data”).

State Data shall not be stored, accessed from, or transferred to any location outside the United States.

Unless otherwise instructed by the State, Contractor agrees to keep confidential all State Data. The Contractor agrees that (a) it will use the State Data only as may be necessary in the course of performing duties or exercising rights under this Contract; (b) it will provide at a minimum the same care to avoid disclosure or unauthorized use of State Data as it provides to protect its own similar confidential and proprietary information; (c) it will not publish, reproduce, or otherwise divulge any State Data in whole or in part, in any manner or form orally or in writing to any third party unless it has received written approval from the State and that third party is subject to a written confidentiality agreement that contains restrictions and safeguards at least as restrictive as those contained in this Contract; (d) it will take all reasonable precautions to protect the State’s information; and (e) it will not otherwise appropriate such information to its own use or to the use of any other person or entity. Contractor will take reasonable measures as are necessary to restrict access to State Data in the Contractor’s possession to only those employees on its staff who must have the information on a “need to know” basis. The Contractor shall not retain any State Data except to the extent required to perform the services under this Contract.
Contractor shall not access State user accounts or State Data, except in the course of
data center operations, response to service or technical issues, as required by the
express terms of this Contract, or at State’s written request.

Contractor may not share State Data with its parent company or other affiliate without
State’s express written consent.

The Contractor shall promptly notify the State of any request or demand by any court,
governmental agency or other person asserting a demand or request for State Data to
which the Contractor or any third party hosting service of the Contractor may have
access, so that the State may seek an appropriate protective order.

6. SECURITY OF STATE INFORMATION

6.1 Security Standards. To the extent the Contractor or its subcontractors, affiliates or
agents handles, collects, stores, disseminates or otherwise deals with State Data, the
Contractor represents and warrants that it has implemented and it shall maintain
during the term of this Contract the highest industry standard administrative,
technical, and physical safeguards and controls consistent with NIST Special
Publication 800-53 (version 4 or higher) and Federal Information Processing
Standards Publication 200 and designed to (i) ensure the security and confidentiality
of State Data; (ii) protect against any anticipated security threats or hazards to the
security or integrity of the State Data; and (iii) protect against unauthorized access to
or use of State Data. Such measures shall include at a minimum: (1) access controls
on information systems, including controls to authenticate and permit access to State
Data only to authorized individuals and controls to prevent the Contractor employees
from providing State Data to unauthorized individuals who may seek to obtain this
information (whether through fraudulent means or otherwise); (2) industry-standard
firewall protection; (3) encryption of electronic State Data while in transit from the
Contractor networks to external networks; (4) measures to store in a secure fashion all
State Data which shall include, but not be limited to, encryption at rest and multiple
levels of authentication; (5) dual control procedures, segregation of duties, and pre-
employment criminal background checks for employees with responsibilities for or
access to State Data; (6) measures to ensure that the State Data shall not be altered or
corrupted without the prior written consent of the State; (7) measures to protect
against destruction, loss or damage of State Data due to potential environmental
hazards, such as fire and water damage; (8) staff training to implement the
information security measures; and (9) monitoring of the security of any portions of
the Contractor systems that are used in the provision of the services against intrusion
on a twenty-four (24) hour a day basis.

6.2 Security Breach Notice and Reporting. The Contractor shall have policies and
procedures in place for the effective management of Security Breaches, as defined
below, which shall be made available to the State upon request.

In the event of any actual security breach or reasonable belief of an actual security
breach the Contractor either suffers or learns of that either compromises or could
compromise State Data (a “Security Breach”), the Contractor shall notify the State
within 24 hours of its discovery. Contractor shall immediately determine the nature
and extent of the Security Breach, contain the incident by stopping the unauthorized
practice, recover records, shut down the system that was breached, revoke access
and/or correct weaknesses in physical security. Contractor shall report to the State:
(i) the nature of the Security Breach; (ii) the State Data used or disclosed; (iii) who made the unauthorized use or received the unauthorized disclosure; (iv) what the Contractor has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure; and (v) what corrective action the Contractor has taken or shall take to prevent future similar unauthorized use or disclosure. The Contractor shall provide such other information, including a written report, as reasonably requested by the State. Contractor shall analyze and document the incident and provide all notices required by applicable law.

In accordance with Section 9 V.S.A. §2435(b)(3), the Contractor shall notify the Office of the Attorney General, or, if applicable, Vermont Department of Financial Regulation (“DFR”), within fourteen (14) business days of the Contractor’s discovery of the Security Breach. The notice shall provide a preliminary description of the breach. The foregoing notice requirement shall be included in the subcontracts of any of Contractor’s subcontractors, affiliates or agents which may be “data collectors” hereunder.

The Contractor agrees to fully cooperate with the State and assume responsibility at its own expense for the following, to be determined in the sole discretion of the State: (i) notice to affected consumers if the State determines it to be appropriate under the circumstances of any particular Security Breach, in a form recommended by the AGO; and (ii) investigation and remediation associated with a Security Breach, including but not limited to, outside investigation, forensics, counsel, crisis management and credit monitoring, in the sole determination of the State.

The Contractor agrees to comply with all applicable laws, as such laws may be amended from time to time (including, but not limited to, Chapter 62 of Title 9 of the Vermont Statutes and all applicable State and federal laws, rules or regulations) that require notification in the event of unauthorized release of personally-identifiable information or other event requiring notification.

In addition to any other indemnification obligations in this Contract, the Contractor shall fully indemnify and save harmless the State from any costs, loss or damage to the State resulting from a Security Breach or the unauthorized disclosure of State Data by the Contractor, its officers, agents, employees, and subcontractors.

6.3 Security Policies. To the extent the Contractor or its subcontractors, affiliates or agents handles, collects, stores, disseminates or otherwise deals with State Data, the Contractor will have an information security policy that protects its systems and processes and media that may contain State Data from internal and external security threats and State Data from unauthorized disclosure, and will have provided a copy of such policy to the State. The Contractor shall provide the State with not less than thirty (30) days advance written notice of any material amendment or modification of such policies.

6.4 Operations Security. To the extent the Contractor or its subcontractors, affiliates or agents handles, collects, stores, disseminates or otherwise deals with State Data, the Contractor shall cause an SSAE 18 SOC 2 Type 2 audit report to be conducted annually. The audit results and the Contractor’s plan for addressing or resolution of the audit results shall be shared with the State within sixty (60) days of the Contractor's receipt of the audit results. Further, on an annual basis, within 90 days
of the end of the Contractor’s fiscal year, the Contractor shall transmit its annual audited financial statements to the State.

6.5 **Redundant Back-Up.** The Contractor shall maintain a fully redundant backup data center geographically separated from its main data center that maintains near realtime replication of data from the main data center. The Contractor’s back-up policies shall be made available to the State upon request. The Contractor shall provide the State with not less than thirty (30) days advance written notice of any material amendment or modification of such policies.

6.6 **Vulnerability Testing.** The Contractor shall run quarterly vulnerability assessments and promptly report results to the State. Contractor shall remediate all critical issues within 90 days, all medium issues within 120 days and low issues within 180 days. Contractor shall obtain written State approval for any exceptions. Once remediation is complete, Contractor shall re-perform the test.

7. **CONTRACTOR’S REPRESENTATIONS AND WARRANTIES**

7.1 **General Representations and Warranties.** The Contractor represents, warrants and covenants that:

(i) The Contractor has all requisite power and authority to execute, deliver and perform its obligations under this Contract and the execution, delivery and performance of this Contract by the Contractor has been duly authorized by the Contractor.

(ii) There is no outstanding litigation, arbitrated matter or other dispute to which the Contractor is a party which, if decided unfavorably to the Contractor, would reasonably be expected to have a material adverse effect on the Contractor’s ability to fulfill its obligations under this Contract.

(iii) The Contractor will comply with all laws applicable to its performance of the services and otherwise to the Contractor in connection with its obligations under this Contract.

(iv) The Contractor (a) owns, or has the right to use under valid and enforceable agreements, all intellectual property rights reasonably necessary for and related to delivery of the services and provision of the Deliverables as set forth in this Contract; (b) shall be responsible for and have full authority to license all proprietary and/or third party software modules, including algorithms and protocols, that Contractor incorporates into its product; and (c) none of the Deliverables or other materials or technology provided by the Contractor to the State will infringe upon or misappropriate the intellectual property rights of any third party.

(v) The Contractor has adequate resources to fulfill its obligations under this Contract.

(vi) Neither Contractor nor Contractor’s subcontractors has past state or federal violations, convictions or suspensions relating to miscoding of employees in NCCI job codes for purposes of differentiating between independent contractors and employees.
7.2 **Contractor’s Performance Warranties.** Contractor represents and warrants to the State that:

(i) All Deliverables will be free from material errors and shall perform in accordance with the specifications therefor for a period of at least one year.

(ii) Contractor will provide to the State commercially reasonable continuous and uninterrupted access to the Service, and will not interfere with the State’s access to and use of the Service during the term of this Contract;

(iii) The Service is compatible with and will operate successfully with any environment (including web browser and operating system) specified by the Contractor in its documentation;

(iv) Each and all of the services shall be performed in a timely, diligent, professional and skillful manner, in accordance with the highest professional or technical standards applicable to such services, by qualified persons with the technical skills, training and experience to perform such services in the planned environment.

(v) All Deliverables supplied by the Contractor to the State shall be transferred free and clear of any and all restrictions on the conditions of transfer, modification, licensing, sublicensing and free and clear of any and all liens, claims, mortgages, security interests, liabilities and encumbrances or any kind.

(vi) Any time software is delivered to the State, whether delivered via electronic media or the internet, no portion of such software or the media upon which it is stored or delivered will have any type of software routine or other element which is designed to facilitate unauthorized access to or intrusion upon; or unrequested disabling or erasure of; or unauthorized interference with the operation of any hardware, software, data or peripheral equipment of or utilized by the State. Without limiting the generality of the foregoing, if the State believes that harmful code may be present in any software delivered hereunder, Contractor will, upon State’s request, provide a new or clean install of the software. Notwithstanding the foregoing, Contractor assumes no responsibility for the State’s negligence or failure to protect data from viruses, or any unintended modification, destruction or disclosure.

(vii) To the extent Contractor resells commercial hardware or software it purchased from a third party, Contractor will, to the extent it is legally able to do so, pass through any such third party warranties to the State and will reasonably cooperate in enforcing them. Such warranty pass-through will not relieve the Contractor from Contractor’s warranty obligations set forth herein.

7.3 **Limitation on Disclaimer.** The express warranties set forth in this Contract shall be in lieu of all other warranties, express or implied.

7.4 **Effect of Breach of Warranty.** If, at any time during the term of this Contract, software or the results of Contractor’s work fail to perform according to any warranty of Contractor under this Contract, the State shall promptly notify Contractor in
writing of such alleged nonconformance, and Contractor shall, at its own expense and without limiting any other rights or remedies of the State hereunder, re-perform or replace any services that the State has determined to be unsatisfactory in its reasonable discretion. Alternatively, with State consent, the Contractor may refund of all amounts paid by State for the nonconforming deliverable or service.

8. PROFESSIONAL LIABILITY AND CYBER LIABILITY INSURANCE COVERAGE

In addition to the insurance required in Attachment C to this Contract, before commencing work on this Contract and throughout the term of this Contract, Contractor agrees to procure and maintain (a) Technology Professional Liability insurance for any and all services performed under this Contract, with minimum third party coverage of $_________ per claim, $_________ aggregate; and (b) first party Breach Notification Coverage of not less than $_________.

Before commencing work on this Contract the Contractor must provide certificates of insurance to show that the foregoing minimum coverages are in effect.

With respect to the first party Breach Notification Coverage, Contractor shall name the State of Vermont and its officers and employees as additional insureds for liability arising out of this Contract.

9. TRADE SECRET, PATENT AND COPYRIGHT INFRINGEMENT

The State shall not be deemed to waive any of its rights or remedies at law or in equity in the event of Contractor’s trade secret, patent and/or copyright infringement.

12 REMEDIES FOR DEFAULT; NO WAIVER OF REMEDIES

In the event either party is in default under this Contract, the non-defaulting party may, at its option, pursue any or all of the remedies available to it under this Contract, including termination for cause, and at law or in equity.

No delay or failure to exercise any right, power or remedy accruing to either party upon breach or default by the other under this Contract shall impair any such right, power or remedy, or shall be construed as a waiver of any such right, power or remedy, nor shall any waiver of a single breach or default be deemed a waiver of any subsequent breach or default. All waivers must be in writing.

13 NO ASSUMPTION OF COSTS

Any requirement that the State defend or indemnify Contractor or otherwise be liable for the expenses or reimbursement, including attorneys’ fees, collection costs or license verification costs of Contractor, is hereby deleted from the Contractor Documents.

14 TERMINATION

Upon termination of this Contract for any reason whatsoever, Contractor shall immediately deliver to the State all State information, State Intellectual Property or State Data (including without limitation any Deliverables for which State has made payment in whole or in part) (“State Materials”), that are in the possession or under the control of Contractor in whatever stage of development and form of recordation such State property is expressed or embodied at that time.
In the event the Contractor ceases conducting business in the normal course, becomes insolvent, makes a general assignment for the benefit of creditors, suffers or permits the appointment of a receiver for its business or assets or avails itself of or becomes subject to any proceeding under the Federal Bankruptcy Act or any statute of any state relating to insolvency or the protection of rights of creditors, the Contractor shall immediately return all State Materials to State control; including, but not limited to, making all necessary access to applicable remote systems available to the State for purposes of downloading all State Materials.

Contractor shall reasonably cooperate with other parties in connection with all services to be delivered under this Contract, including without limitation any successor provider to whom State Materials are to be transferred in connection with termination. Contractor shall assist the State in exporting and extracting the State Materials, in a format usable without the use of the Services and as agreed to by State, at no additional cost.

Any transition services requested by State involving additional knowledge transfer and support may be subject to a contract amendment for a fixed fee or at rates to be mutually agreed upon by the parties.

If the State determines in its sole discretion that a documented transition plan is necessary, then no later than sixty (60) days prior to termination, Contractor and the State shall mutually prepare a Transition Plan identifying transition services to be provided.

15. ACCESS TO STATE DATA:

The State may import or export State Materials in part or in whole at its sole discretion at any time (24 hours a day, seven (7) days a week, 365 days a year), during the term of this Contract or for up to [three (3) months] after the Term (so long as the State Materials remain in the Contractor’s possession) without interference from the Contractor in a format usable without the Service and in an agreed-upon file format and medium at no additional cost to the State.

The Contractor must allow the State access to information such as system logs and latency statistics that affect its State Materials and or processes.

The Contractor’s policies regarding the retrieval of data upon the termination of services have been made available to the State upon execution of this Contract under separate cover. The Contractor shall provide the State with not less than thirty (30) days advance written notice of any material amendment or modification of such policies.

16. AUDIT RIGHTS

Contractor will maintain and cause its permitted contractors to maintain a complete audit trail of all transactions and activities, financial and non-financial, in connection with this Contract. Contractor will provide to the State, its internal or external auditors, clients, inspectors, regulators and other designated representatives, at reasonable times (and in the case of State or federal regulators, at any time required by such regulators) access to Contractor personnel and to any and all Contractor facilities or where the required information, data and records are maintained, for the purpose of performing audits and inspections (including unannounced and random audits) of Contractor and/or Contractor
personnel and/or any or all of the records, data and information applicable to this Contract.

At a minimum, such audits, inspections and access shall be conducted to the extent permitted or required by any laws applicable to the State or Contractor (or such higher or more rigorous standards, if any, as State or Contractor applies to its own similar businesses, operations or activities), to (i) verify the accuracy of charges and invoices; (ii) verify the integrity of State Data and examine the systems that process, store, maintain, support and transmit that data; (iii) examine and verify Contractor’s and/or its permitted contractors’ operations and security procedures and controls; (iv) examine and verify Contractor’s and/or its permitted contractors’ disaster recovery planning and testing, business resumption and continuity planning and testing, contingency arrangements and insurance coverage; and (v) examine Contractor’s and/or its permitted contractors’ performance of the Services including audits of: (1) practices and procedures; (2) systems, communications and information technology; (3) general controls and physical and data/information security practices and procedures; (4) quality initiatives and quality assurance, (5) contingency and continuity planning, disaster recovery and back-up procedures for processes, resources and data; (6) Contractor’s and/or its permitted contractors’ efficiency and costs in performing Services; (7) compliance with the terms of this Contract and applicable laws, and (9) any other matters reasonably requested by the State. Contractor shall provide and cause its permitted contractors to provide full cooperation to such auditors, inspectors, regulators and representatives in connection with audit functions and with regard to examinations by regulatory authorities, including the installation and operation of audit software.

17. DESTRUCTION OF STATE DATA

At any time within thirty days of the State’s written request and after the State has had an opportunity to export and recover the State Materials, Contractor shall at its own expense securely destroy and erase from all systems it directly or indirectly uses or controls all tangible or intangible forms of the State Materials, in whole or in part, and all copies thereof except such records as are required by law or this Contract. The destruction of State Data and State Intellectual Property shall be performed according to National Institute of Standards and Technology (NIST) approved methods. Contractor shall certify in writing to the State that such State Data has been disposed of securely. To the extent that any applicable law prevents Contractor from destroying or erasing State Materials as set forth herein, Contractor shall retain, in its then current state, all such State Materials then within its right of control or possession in accordance with the confidentiality, security and other requirements of this Contract, and perform its obligations under this section as soon as such law no longer prevents it from doing so.

Further, upon the relocation of State Data, Contractor shall securely dispose of such copies from the former data location and certify in writing to the State that such State Data has been disposed of securely. Contractor shall comply with all reasonable directions provided by the State with respect to the disposal of State Data.

18 CONTRACTOR BANKRUPTCY.

Contractor acknowledges that if Contractor, as a debtor in possession, or a trustee in bankruptcy in a case under Section 365(n) of Title 11, United States Code (the "Bankruptcy Code"), rejects this Contract, the State may elect to retain its rights under this Contract as provided in Section 365(n) of the Bankruptcy Code. Upon written
request of the State to Contractor or the Bankruptcy Trustee, Contractor or such Bankruptcy Trustee shall not interfere with the rights of the State as provided in this Contract, including the right to obtain the State Intellectual Property.